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land Use and Local Revenue Sharing: Playing the Zero-Sum Game

Senate Committee on Local Government

Assembly Committee on Local Government

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LAND USE AND LOCAL REVENUE SHARING: PLAYING THE ZERO-SUM GAME

Summary Report from the Joint Interim Hearing
of the

Senate Committee on Local Government
Marian Bergeson, Chairman

and the

Assembly Committee on Local Government
Dominic L. Cortese, Chairman

November 17, 1989

Board of Supervisors Chambers
County Administration Building
San Jose, California

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On Friday, November 17, 1989, the Senate and Assembly Local Government Committees held a joint interim hearing on four bills that Senator Marian Bergeson and Assemblyman Dominic L. Cortese introduced to make it easier for local governments to voluntarily share revenues from local sales and property taxes. These bills are: Senate Bill 968, its constitutional companion, Senate Constitutional Amendment 19 (Bergeson) and Assembly Bill 2204 and Assembly Bill 2205 (Cortese). The Committees also met to discuss extending the deadline for negotiating property tax revenue exchanges during annexations.

Senator Marian Bergeson, Chairman of the Senate Local Government Committee, presided over the hearing with Assemblyman Dominic L. Cortese, Chairman of the Assembly Local Government Committee. The Chairmen were joined by Senator Ruben Ayala, Senator Cecil Green, Senator Robert Presley, and Assemblyman Curt Pringle.

These legislators heard testimony from 18 witnesses, representing the bills' supporters and opponents. Roughly 50 people were also present in the audience. The day-long hearing began at 9:50 a.m. in the Santa Clara County Administration Building's Board of Supervisor's Chambers in the City of San Jose and finished shortly after 4:00 p.m.

This staff summary reports who spoke, summarizes their comments and recommendations, and reprints their testimony in the order found below at the back of this report. Since any summary inevitably omits details, readers may want to refer to the witnesses' own prepared remarks which are found at the back of this report. This report also includes the staff's background issue paper.

WITNESSES

Honorable Iola Williams (Councilmember, City of San Jose)
President, League of California Cities

Jim Harrington
League of California Cities

Honorable Rod Diridon (Chairperson, Santa Clara County
Board of Supervisors)

Chair, Metropolitan Transportation Commission
Chair, BAY VISION 2020

Honorable Kay Cenicerros (Riverside County Board of
Supervisors)
County Supervisors Association of California

Daniel G. Wall
County Supervisors Association of California

Honorable Karen Humphrey, Mayor
City of Fresno

Honorable Judy Andreen, Supervisor
Fresno County

Honorable William Thomson, Mayor
City of Pasadena

Bill Davis (San Mateo County LAFCO)
California Association of LAFCOs

Conni Barker
Association of California Water Agencies

Fred Davis, City Manager
City of Chico

Susan Roff Minasian, County Counsel
Butte County

Honorable Ron Currie, Councilmember
City of Pittsburg

Bill Bullard, City Attorney
City of Hercules

Kerry Harms Taylor, Assistant County Administrator
Contra Costa County

George Krempfle, Deputy City Manager
City of Chula Vista

Honorable Brian Bilbray, Supervisor
San Diego County

Anne Gavin, representing Los Angeles County, was scheduled to testify, but was unable to attend the hearing. She submitted written testimony which is reprinted in this report.

INTRODUCTORY COMMENTS

After welcoming everyone to his district, **Assemblyman Cortese** commented that "we really need to take a serious look at restructuring the way local revenues are distributed. We must stop being so parochial in our attitudes and look to the needs of the entire community when we are making land use decisions." He added that his bills "respond to comments that we received at last year's interim hearing on growth which indicated that land use decisions are driven by revenue needs. We all end up paying for these short-sighted decisions through increased traffic congestion and air pollution, overcrowded schools, loss of open space and inadequate infrastructure."

Senator Bergeson expressed dismay that so little progress had been made in reducing conflicts between cities and counties, despite several recent special hearings and legislative proposals, which she summarized. She stated that she was unconvinced that the cities' proposal to exclude annexation negotiations from the current bills will solve the problem either. Referring to the staff report, Senator Bergeson noted that "the zero-sum game continues to block our efforts at legislative reform. For every dollar one local agency gets, another loses." She cited one local official's vivid description that "cities and counties are like two dogs in a pit fighting over a bone." Both legislators called for specific solutions to either amend their bills or propose others.

COMMENTS, CONCERNS, AND CONSTRUCTIVE CRITICISM

When the Assembly Local Government Committee heard Senator Bergeson's SB 968 and SCA 19 in July, support for the bills came mainly from counties and opposition to the part which makes it easier to share sales tax revenues came from cities. At the November joint hearing, Committee members heard the basis for their support and opposition in greater detail. In addition, the Committees heard specifics on several past, pending, and future negotiations between cities and counties. Witnesses representing local agency formation commissions (LAFCOs) and local water agencies also elaborated on the problems with the current statutory deadline for negotiating property tax revenue transfers as part of annexation proceedings. **Supervisor Rod Diridon** also presented background on the recently appointed BAY VISION 2020 Commission. It will look at land use issues which cross city and county boundaries in the Bay Area. The 30-member citizen commission will finish its work by the end of 1990.

City and county officials generally agreed that Proposition 13 and subsequent propositions and statutes have lead to the competition between them for limited revenues. But they differed on what revenue sources should be negotiated as a result. For annexations in particular, counties want all affected revenue sources to be negotiated, whereas cities want the negotiations limited to property taxes.

To alleviate their struggles over land uses which are revenue-producing, both city and county officials called for expanding county revenue sources. **Councilmember Iola Williams** (League of California Cities) concluded that "cities and counties are arguing over the few crumbs left on the table." The only remaining way to increase revenue now is to increase the tax base through the competition for economic development. To her, this situation has lead to conflicts over municipal revenues which should be used for municipal purposes and not to "backfill underfunded state programs carried out by the county."

Echoing Williams' remarks, **Fred Davis** (City of Chico) admonished the state to "shoulder its own responsibilities by providing financial resources for the programs it mandates." **Supervisor Kay Cenicerros** (Riverside County) added that the "breadth of demands on counties warrants an additional revenue source."

Supervisor Brian Bilbray (San Diego County) described the fundamental issue from a county's perspective as the structure of local finance. He cited the San Diego Association of Government's 1987 study on regional governmental responsibilities and revenues which found that "governmental responsibilities at the local level do not match with local agency authority and taxing powers in the post-Proposition 13 world. He recommended that counties be given the same taxing powers as cities.

Mayor William Thomson (City of Pasadena) commented that the role of county government should be re-examined. He questioned whether county government should still be providing municipal-type services such as police and fire protection to urbanized, unincorporated areas, particularly when there are many complex regional problems to be addressed.

Reaction to the legislation. Representing the League of California Cities, **Jim Harrington** restated the League's opposition to SB 968 and SCA 19 (Bergeson) on the basis that these bills "would have added fuel to the fire in current negotiations for annexations." He added that the "League

actually supported Mr. Cortese's AB 2204 when it was amended to exclude annexations." Reporting on the League's survey of cities' experiences with annexations, Harrington found that 80 % of the respondents felt that negotiations with counties were "conducted on an amicable basis." Only "fourteen cities, representing 20% of the annexations, indicated that the county had refused to negotiate a property tax exchange agreement and threatened to block the annexation until additional concessions were made." However, these relatively few annexations are very controversial in their communities, as many of the witnesses confirmed.

Harrington also questioned the need for any legislation when cities and counties can already share the sales tax rate under the Bradley-Burns Uniform Sales and Use Tax Law of 1956. He also cited examples where cities have shared general fund revenues for transportation improvements without earmarking a specific revenue source. He further questioned whether the vote on sales tax sharing should be removed as SB 968, SCA 19, and AB 2204 propose. He stated, "since cities must obtain a vote requirement to increase taxes, it is argued that it is equally appropriate to obtain voter approval to give up those taxes to another entity, which in turn could require a tax increase to replace those transferred revenues."

Representing the County Supervisors Association of California, **Dan Wall** countered that "a state imposed solution which excludes annexations from permissive sales tax sharing distorts good decision making at the local level, and in fact perpetuates the problem which you have come to know as fiscalization of land use." He also saw the sharing of the sales tax rate as "very imprecise in terms of coming up with an actual amount." He thought it would be much easier to simply transfer a percentage of a city's annual revenue or a fixed dollar amount and urged support for SCA 19. Wall also added that redevelopment, annexation, and incorporation all have a "potential for drawing significant amounts of revenues away from a county without changing county service obligations." He and other county representatives called for expanding the scope of negotiations so that cities and counties can better resolve their differences.

Kerry Harms Taylor (Contra Costa County) likened the scope of city-county negotiations to a symphony. She commented that "we believe that property taxes should not be considered in a vacuum. They are one part of the big financial picture. Ignoring the rest of the picture (including all sources of revenue and all expenses) would be something like playing a symphony with only the string section. You also have to know

what the brass, woodwinds and percussion sections are doing in order to properly appreciate the music. If you add or delete a few violins, you had better consider the effect on the entire symphony orchestra, not just the string section."

In rebuttal, **Councilmember Ron Currie** (City of Pittsburg, Contra Costa County) submitted a 1987 opinion from the Legislative Counsel which found that the current law on negotiating revenues "does not authorize local agencies to negotiate over the distribution of taxes other than the property tax in the case of a jurisdictional change involving a proposed municipal annexation." This opinion is reprinted in the back of this report.

How locals are playing the zero-sum game. **Councilmember Williams** (City of San Jose) described the law Mr. Cortese carried for Santa Clara County which "went a long way toward reducing conflicts over annexation in this county." (AB 3003, Cortese, 1982). Cities in Santa Clara County can annex territory within their "urban service areas" without LAFCO approval.

● **Butte County and the City of Chico.** **Susan Roff Minasian** (Butte County) explained the County's reasons for filing lawsuits to fight the City's proposed annexation of the North Valley Mall. The Mall generated roughly \$600,000 a year in sales tax and \$45,000 a year in property taxes. She concluded that "had legislation been in effect which allowed the negotiation of sales tax to occur as a matter of right...much of the litigation and delay surrounding the (North Valley Mall Shopping Center) annexation could have been avoided." **Fred Davis** (City of Chico) also added that after five years of lawsuits, the City and the County were more motivated to resolve their differences over the annexation.

● **Fresno County and City of Fresno.** **Supervisor Judy Andreen's** testimony summarized the County's analysis of how its land use policies had contributed to its fiscal crisis, particularly from the loss of sales tax revenues and redevelopment. This situation led the County to terminate its master agreement with the City of Fresno and, more recently, the remaining 14 cities in the County. Since then, these cities and the County have been negotiating sales tax sharing, land use policies, and redevelopment, in addition to property taxes. But the County's request for a 100% pass-through of the County's tax increment revenues on future and amended redevelopment projects has stalled the negotiations.

Because the County terminated its master agreement, **Mayor**

Karen Humphrey said that the City of Fresno's 17 annexation projects have been delayed for over two years and another 10 projects are awaiting processing. She recounted the effects on different cities in the county and added that "adverse economic consequences are most immediate for the building industry, with the predictable ripple effect on all related business."

● **Los Angeles County and the City of Pasadena.** In her testimony, **Anne Gavin** noted that Los Angeles County applies a formula which governs property tax transfers for annexations with assessed values under \$10 million. Annexations with an assessed value over \$10 million are negotiated on case-by-case basis. Under this system, she reported that "LAFCO processes over 250 annexation proposals a year, and only about 1% of these proposals involve negotiations."

Mayor Thomson (City of Pasadena) described his city's frustrations with its two-year effort to annex a part of East Colorado Boulevard as part of an overall effort to revitalize Colorado Boulevard. The County, however, objected to the estimated loss of \$498,000 in sales tax revenue from the commercial properties in the proposed annexation area, particularly a Circuit City store. Consequently, the County proposed an annual property tax transfer of \$300,000 to cover the loss of sales tax revenues and the costs of providing services. The City objected and the annexation is on hold.

● **Contra Costa County and the City of Hercules.** **Kerry Harms Taylor** (Contra Costa County) placed the proposed annexation of open space in Franklin Canyon to the City of Hercules in the context of the county's budget. She described how a disproportionate share of major services are provided to city residents. Thus, "a reduced level of property taxes or loss of sales tax upon annexation only makes this disproportionate service demand even worse." Nevertheless, she added that 48 annexations have occurred in the last three years.

Bill Bullard representing the City of Hercules charged that the "County appears now to be using the property tax exchange agreement as a method of growth control." He contends that state law on negotiating property tax exchange agreements was not "intended to provide counties with the authority to control land use within cities, nor the timing of development within cities."

● **San Diego County and the City of Chula Vista.** Re-development law also has negatively effected San Diego County, according to **Supervisor Bilbray**. For the last four

years, the County has contributed \$33 million in property tax revenues to finance city redevelopment efforts, but cities have added only \$23 million of their own property tax revenues.

George Kremple (City of Chula Vista) described the joint planning effort of the city and county to forge an agreement before any boundary changes are initiated on the Otay Ranch development. Although the proposed project lies entirely in the unincorporated area of the County, the city is very involved because 42% of the Ranch property is within the City's planning area, is a special study area, and will be the subject of a sphere of influence study. He told the Committees that the process has pointed out the need for linking finances and land use issues.

Agreement on extending the negotiation deadline. There was general agreement that existing law gives local officials insufficient time to negotiate property tax revenues when there is an annexation, even where there is complete agreement. Representing the California Association of LAFCOs, **Bill Davis** called for extending the negotiation period from 30 days to 90 days as Mr. Cortese proposed this year in AB 694. Annexations come to a halt if LAFCO does not receive the resolutions on transferring the property tax revenues from both parties within 30 days after the county auditor provides them with the tax data. Davis cited a recent LAFCO survey which found that the negotiation process takes from 60 to 90 days in counties where annexations require individual negotiations. He described the proposed time extension as a change in procedure, not policy.

Noting that special districts are also subject to these laws, **Conni Barker**, representing the Association of California Water Agencies (ACWA), described the problems the Pico Water District encountered in the City of Pico Rivera (Los Angeles County). The City wanted to make the District into a subsidiary district. During the negotiations, the District submitted its own proposal to LAFCO. Since both parties could not agree on the transfer of property tax revenues within the statutory time frame, LAFCO could not hear the District's alternative proposal. On behalf of ACWA, she called for a 60-day extension of the deadline and recommended that LAFCO fix the amount of revenue to be exchanged when there is an impasse.

Call for conflict resolution. Several witnesses called for a process to resolve conflicts when local officials are unable to agree on a property tax transfer. As mentioned in the preceding paragraph, ACWA suggests that LAFCO perform this

role. Speaking on behalf of the 18 cities in Contra Costa County, **Councilmember Currie** suggested that both parties accept a superior court judge's opinion if agreement cannot be reached. The Court would hear each side's last best offer and make a decision based on the value of services to be transferred. **Mayor Thomson** preferred a retired judge who would hear the case for a fee which the city and county would jointly pay. He felt that a superior court judge's caseload is so heavy that annexation disputes would not be a high priority and could take years to schedule.

SUMMARY OF OTHER RECOMMENDATIONS FOR LEGISLATIVE ACTION

- Require property tax negotiations to be done in "good faith" and finalized in a public hearing (Bullard).
- Adopt a cut-off date after which a formula or master property tax agreement is invoked when there is an impasse (Bullard).
- Require a finding on tax sharing agreements and/or fiscal detriment for annexations and incorporations (Ceniceros).
- Expand LAFCO's membership to include one representative from the largest city in a county if the city has at least a 50% greater population than the next largest city (Humphrey).
- Amend the Cortese-Knox Act to make it easier to annex county "islands" (Humphrey).
- Allow the agency canceling the agreement to place some of its current property taxes in a trust account until agreement is reached (Humphrey).
- Allow LAFCO to process the annexation and impose the conditions of the property tax exchange agreement retroactively (Humphrey).
- When there is an impasse, allow the current agreement to remain active during a new, one-year negotiating period (Humphrey).
- Give LAFCOs independent funding, separate from county revenues (Humphrey).
- Amend the California Environmental Quality Act (CEQA) to require an analysis of fiscal impacts on neighboring jurisdictions (Thomson, Ceniceros).

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LAND USE AND LOCAL REVENUE-SHARING:

PLAYING THE ZERO-SUM GAME

APPENDIX A

WRITTEN MATERIAL PRESENTED TO THE COMMITTEE

Hon. Iola Williams
Jim Harrington
Hon. Rod Diridon
Hon. Kay Cenicerros
Daniel G. Wall
Hon. Karen Humphrey
Hon. Judy Andreen
Hon. William Thomson
Bill Davis
Conni Barker
Fred Davis
Susan Roff Minasian
Hon. Ron Currie
Bill Bullard
Kerry Harms Taylor
George Krempel
Hon. Brian Bilbray
Anne Gavin



League of California Cities

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**JOINT HEARING OF THE SENATE AND ASSEMBLY LOCAL GOVERNMENT COMMITTEES
ON
"LAND USE AND LOCAL REVENUE SHARING: PLAYING THE ZERO-SUM GAME"**

FRIDAY, NOVEMBER 17, 1989

**TESTIMONY OF IOLA WILLIAMS, CITY COUNCIL MEMBER, CITY OF SAN JOSE
AND
PRESIDENT-ELECT, LEAGUE OF CALIFORNIA CITIES**

INTRODUCTION

GOOD MORNING. I AM SPEAKING TO YOU TODAY AS PRESIDENT-ELECT OF THE LEAGUE OF CALIFORNIA CITIES, AND AS A CITY COUNCIL MEMBER OF THE CITY OF SAN JOSE. THE TOPIC BEFORE YOU TODAY IS ONE OF INCREASING IMPORTANCE TO CITIES THROUGHOUT THE STATE.

ANNEXATIONS ARE A LONG-STANDING METHOD FOR CARRYING OUT SOUND STATE AND LOCAL POLICIES THAT ENSURE THAT URBANIZATION OCCURS IN MUNICIPALITIES WHO ARE BEST PREPARED TO EFFICIENTLY PROVIDE MUNICIPAL SERVICES. CITIES INCREASINGLY FIND THEMSELVES IN CONFLICT WITH COUNTIES OVER FINANCIAL ISSUES THAT HAVE BECOME LINKED TO PROPOSED ANNEXATIONS.

YOU MAY WISH TO NOTE THAT AS PART OF MY BACKGROUND WITH THE CITY OF SAN JOSE, I SERVED ON THE SANTA CLARA COUNTY LOCAL AGENCY FORMATION COMMISSION WHICH DEALT WITH THE RAPID GROWTH AND

URBANIZATION OF THE COUNTY THAT RESULTED IN NUMEROUS ANNEXATIONS. I WAS ON THE CITY COUNCIL WHEN ASSEMBLY MEMBER DOMINIC CORTESE CARRIED "URBAN SERVICE AREA" LEGISLATION WHICH WENT A LONG WAY TOWARD REDUCING CONFLICTS OVER ANNEXATION IN THIS COUNTY. FOR SAN JOSE, THIS LEGISLATION ENSURED A LOGICAL, SEQUENTIAL APPROACH FOR URBANIZATION AND ANNEXATION THAT HAS GREATLY REDUCED AND PERHAPS EVEN ELIMINATED THE TYPE OF CONFLICTS OCCURRING ELSEWHERE IN THE STATE.

LOCAL GOVERNMENTS, COUNTY GOVERNMENT, AND THE LAFCO IN SANTA CLARA COUNTY HAVE HAD JOINT POLICIES IN EFFECT FOR NEARLY 20 YEARS THAT PROMOTE URBAN DEVELOPMENT WITHIN THE CITY'S URBAN SERVICE AREA BOUNDARY. THE SERVICE AREA IS DEFINED AS THE DEVELOPED AND UNDEVELOPED LANDS WITHIN THE CITY'S SPHERES OF INFLUENCE WHICH ARE CURRENTLY SERVED BY EXISTING URBAN FACILITIES AND SERVICES, OR ARE PROPOSED TO BE SERVED WITHIN THE NEXT 5 YEARS. THESE URBAN DEVELOPMENT POLICIES WERE OUR SOLUTION TO THE HAPHAZARD GROWTH PATTERNS AND ANNEXATION "WARS" THAT OCCURRED IN SANTA CLARA COUNTY IN THE LATE 1950s AND 1960s.

SPECIFIC PRACTICES THAT IMPLEMENT THESE POLICIES INCLUDE THE DISCOURAGEMENT OF DEVELOPMENT IN THE UNINCORPORATED AREA BY REQUIRING DEVELOPERS AND PROPERTY OWNERS TO ANNEX THEIR

PROPERTIES TO THE AFFECTED CITY, PRIOR TO THE DEVELOPMENT. IN SAN JOSE, URBAN DEVELOPMENT IS DIRECTED INTO THE CITY'S URBAN SERVICE AREA.

OUR ANNEXATION POLICIES ARE REINFORCED BY SPECIAL PROVISIONS IN THE CORTESI-KNOX LOCAL GOVERNMENT REORGANIZATION ACT OF 1985, WHICH ALLOWS CITIES IN SANTA CLARA COUNTY TO ANNEX TERRITORY WITHIN THEIR URBAN SERVICE AREAS WITHOUT LAFCO APPROVAL.

HISTORY AND CAUSES OF ANNEXATION CONFLICTS THROUGHOUT THE STATE

ELSEWHERE IN THE STATE, CITIES HAVE NOT BEEN AS FORTUNATE.

HISTORICALLY, ANNEXATION ISSUES HAVE PRIMARILY BEEN TURF BATTLES, WITH AN EMPHASIS ON WHO CONTROLS THE LAND USES AND DEVELOPMENT STANDARDS. HOWEVER, IN MORE RECENT TIMES ANNEXATIONS HAVE BECOME MAJOR ECONOMIC BATTLES. WHY HAS THIS OCCURRED?

THERE ARE ESSENTIALLY TWO REASONS FOR THE CURRENT FIGHT OVER THE ECONOMICS OF ANNEXATION. THE FIRST IS WELL NOTED IN YOUR STAFF REPORT, AND THAT IS THE ZERO-SUM GAME CREATED BY PROPOSITION 13 AND THE MANY FISCAL LIMITATION MEASURES SPAWNED BY THAT INITIATIVE. THE SECOND REASON IS THE RESULTING COMPETITION FOR AN ERODED LOCAL GOVERNMENT TAX BASE.

FIRST, AS YOU KNOW PROPOSITION 13 ESTABLISHED A MAXIMUM ONE PERCENT TAX RATE WHICH MUST BE SHARED BY ALL TAXING ENTITIES. PRIOR TO PROPOSITION 13, ONE OF THE MAJOR ARGUMENTS AGAINST INCORPORATION OR ANNEXATION WAS THAT TAXES WOULD INCREASE FOR THOSE IN THE AFFECTED AREA. PROPOSITION 13, AS WELL AS PROPOSITION 62, HAVE ESSENTIALLY ELIMINATED THAT ARGUMENT. PROPERTY TAXES WILL BE THE SAME NO MATTER WHAT JURISDICTION THE PROPERTY IS IN. THE MAXIMUM PROPERTY TAX LEVY MUST BE SHARED, AND AN ANNEXATION OR INCORPORATION SIMPLY ADDS ONE MORE PARTY TO THE GROUP SHARING THE PROPERTY TAX. FURTHER, PROPOSITION 62 REQUIRES VOTER APPROVAL FOR ANY NEW OR INCREASED TAX WHICH ENSURES THAT OTHER TAXES WON'T BE INCREASED FOR THE PARTIES WITHIN THE ANNEXED OR INCORPORATED AREA.

AB 8, THE IMPLEMENTING LEGISLATION FOR PROPOSITION 13, REQUIRES THAT PROPERTY TAXES BE REDISTRIBUTED AMONG AFFECTED ENTITIES WHEN THERE IS A JURISDICTION CHANGE. FOR INCORPORATIONS THERE IS A FORMULA THAT BASICALLY SAYS THE DOLLARS GO WITH THE DUTIES. THAT IS, WHEN A CITY IS CREATED IT RECEIVES A PROPORTIONATE SHARE OF PROPERTY TAXES RELATIVE TO THE COST OF SERVICES ASSUMED FROM THE COUNTY OR SPECIAL DISTRICTS.

UNFORTUNATELY, FOR ANNEXATIONS, THERE IS NO FORMULA AND THE LEGISLATURE SIMPLY LEFT IT TO THE LOCAL ENTITIES TO NEGOTIATE A MUTUALLY-ACCEPTABLE REDISTRIBUTION OF PROPERTY TAX REVENUES. TO STANDARDIZE THIS PROCESS, MANY COUNTIES NEGOTIATED WITH THEIR CITIES TO DEVELOP A MASTER AGREEMENT FOR PROPERTY TAX EXCHANGES, WHILE OTHER COUNTIES PROCEEDED ON A CASE-BY-CASE BASIS.

GENERALLY, PROPERTY TAX EXCHANGES WORKED RELATIVELY WELL FOR THE FIRST 6 TO 8 YEARS AFTER PROPOSITION 13. HOWEVER, THIS HAS NOW BECOME A MAJOR PROBLEM THROUGHOUT THE STATE IN THE LAST FEW YEARS. WHY?

THIS BRINGS ME TO THE SECOND REASON FOR THE CURRENT FIGHTS OVER THE ECONOMICS OF ANNEXATION. THESE FIGHTS ARE SYMPTOMS OF A GREATER UNDERLYING PROBLEM, WHICH IS AN ERODED TAX BASE FOR CITIES AND COUNTIES THAT SIMPLY IS NOT ENOUGH. COUNTIES APPEAR TO BE GETTING THE WORST OF IT DUE TO THEIR UNIQUE RELATIONSHIP WITH THE STATE WHICH GIVES THEM LITTLE CONTROL OVER THEIR EXPENDITURES OR REVENUE.

THE FINANCIAL POT IS SMALLER AFTER PROPOSITION 13 AND NO ONE AGENCY CAN INCREASE ITS PIECE OF THE PIE WITHOUT TAKING FROM ANOTHER. THE LEGACY OF PROPOSITION 13 HAS BEEN FOR REDUCTIONS OR RESTRICTIONS IN CITY AND COUNTY REVENUE. PROPOSITION 13 HAS SPAWNED OTHER

PROPOSITIONS AND STATUTES WHICH HAVE REDUCED OR LIMITED THE REVENUE BASE OF CITIES AND COUNTIES. AS YOU KNOW, THE PROPOSITION 4 GANN LIMIT PLACES A CEILING ON ALL TAXES, AS WELL AS FEES THAT EXCEED THE COST OF SERVICE PROVIDED. IN 1986, PROPOSITIONS 58 AND 60 CREATED MAJOR EXEMPTIONS FROM PROPERTY TAX REASSESSMENT FOR PARENTS AND PERSONS OVER AGE 55. IN 1981 THE LEGISLATURE REPEALED THREE STATE SUBVENTIONS THAT HAD PREVIOUSLY GONE TO CITIES AND COUNTIES, AND IN 1984 THE LEGISLATURE REPEALED THE BUSINESS INVENTORY TAX SUBVENTION. FINALLY, IN 1986 THE INITIATIVE PROPOSITION 62 REQUIRES VOTER APPROVAL FOR ANY NEW OR INCREASED TAX, WITH AN EXTRAORDINARY TWO-THIRDS VOTE REQUIREMENT FOR A SPECIAL TAX.

AS A RESULT, CITIES AND PARTICULARLY COUNTIES HAVE LITTLE OR NO AUTHORITY TO GENERATE ADDITIONAL REVENUE WITH NEW TAXES OR INCREASED RATES. THE ONLY REMAINING WAY TO INCREASE REVENUE IS TO INCREASE THE TAX BASE. THIS LEADS TO THE SECOND CONFLICT FOR CITIES AND COUNTIES, AND THAT IS THE COMPETITION FOR ECONOMIC DEVELOPMENT WHICH INCREASES THE TAX BASE. THE RELATED CONFLICT OVER ANNEXATIONS AND INCORPORATIONS IS A PRODUCT OF THIS COMPETITION FOR TAX BASE.

NEED TO EXAMINE THE PROBLEMS' CAUSE AND NOT THE SYMPTOMS

SIMPLY STATED, CITIES AND COUNTIES ARE ARGUING OVER THE FEW CRUMBS LEFT ON THE TABLE, KNOWING WELL THAT THERE SIMPLY ISN'T ENOUGH FOR EITHER OR BOTH. PROPOSITION 13 AND THE LEGACY OF SUBSEQUENT INITIATIVE AND STATUTORY MEASURES HAVE ERODED LOCAL GOVERNMENTS' FINANCIAL SITUATION. REVENUES ARE RESTRICTED AND UNABLE TO KEEP PACE WITH MANDATED EXPENDITURES, ESPECIALLY FOR COUNTIES. COUNTIES HAVE BEEN UNSUCCESSFUL IN SECURING ADEQUATE FINANCING FOR STATE-MANDATED PROGRAMS. IN DESPERATION, SOME COUNTIES HAVE DECIDED TO LOOK TO CITIES AS AN OPPORTUNITY FOR REVENUE THROUGH THE ANNEXATION NEGOTIATION PROCESS.

AS NOTED IN YOUR STAFF REPORT, COUNTIES CAN EFFECTIVELY VETO AN ANNEXATION PROPOSAL BEFORE IT GOES THROUGH THE LAFCO PROCESS. A PROPERTY TAX SHARING AGREEMENT WITH THE COUNTY IS REQUIRED BEFORE A CITY CAN ANNEX TERRITORY. COUNTIES CAN THEREFORE BLOCK ANNEXATIONS BY REFUSING TO SIGN THE AGREEMENT. AN INCREASING NUMBER OF COUNTIES ARE USING THEIR VETO POWER TO DEMAND ADDITIONAL REVENUE CONCESSIONS BEYOND THE PROPERTY TAX EXCHANGE SET FORTH IN STATUTE. THE LEAGUE HAS RECEIVED AN INCREASING NUMBER OF COMPLAINTS FROM THROUGHOUT THE STATE THAT COUNTIES ARE REFUSING TO ALLOW ANNEXATIONS UNTIL CITIES AGREE TO

PROVIDE COUNTIES WITH REVENUES BEYOND A REASONABLE SHARE OF THE PROPERTY TAX GENERATED IN THE ANNEXING AREA. IN SOME CASES, THE DEMAND IS FOR MUNICIPAL REVENUES GENERATED WITHIN EXISTING CITY BOUNDARIES WHICH HAVE NO RELATIONSHIP TO THE ANNEXATION. YOU WILL HEAR SEVERAL OF THESE CASES THROUGH THE TESTIMONY OF CITY OFFICIALS LATER TODAY.

WHAT WE ARE ARGUING OVER IS MUNICIPAL REVENUES SOURCES AND THESE REVENUES SHOULD BE USED FOR MUNICIPAL PURPOSES; NOT TO BACKFILL UNDERFUNDED STATE PROGRAMS CARRIED OUT BY THE COUNTY.

WE HAVE OFTEN HEARD IT SAID THAT CITIES ARE DOING BETTER FINANCIALLY BECAUSE OF THEIR BROADER REVENUE-RAISING AUTHORITY. EXHIBIT 1, ATTACHED TO MY WRITTEN TESTIMONY, DRAMATICALLY DEMONSTRATES THAT THE FACTS ARE OTHERWISE. COUNTY TOTAL REVENUES FOR GENERAL PURPOSES HAVE ACTUALLY GROWN SLIGHTLY FASTER THAN CITY GENERAL REVENUES. ON A PER CAPITA BASIS, COUNTY REVENUES HAVE INCREASED BY 55 PERCENT OVER THE TEN-YEAR PERIOD OF 1977-78 TO 1986-87. AT THE SAME TIME, CITY REVENUES HAVE GROWN 52 PERCENT PER CAPITA.

THE TRUTH IS, NEITHER CITIES NOR COUNTIES ARE DOING WELL FINANCIALLY, PARTICULARLY WHEN INFLATION IS TAKEN INTO

CONSIDERATION. WHEN ADJUSTED FOR INFLATION, CITIES ACTUALLY HAVE LESS REVENUE PER CAPITA NOW THAN THEY GENERATED IN 1977-78, THE YEAR BEFORE PROPOSITION 13. IN REAL, CONSTANT DOLLARS, CITIES RAISED \$609 IN REVENUE PER CAPITA IN 1977-78, AND THIS HAS DROPPED TO \$512 PER CAPITA IN 1986-87 -- A DECREASE OF 16 PERCENT IN REAL INCOME TO SUPPORT MUNICIPAL SERVICES.

BOTH CITIES AND COUNTIES ARE STRUGGLING TO HOLD THEIR OWN FINANCIALLY. THE NEAR BANKRUPTCY OF BUTTE COUNTY AND OTHER SMALL COUNTIES IS INDICATIVE OF THE PROBLEM. HOWEVER, NOT AS WELL KNOWN ARE SIMILAR PROBLEMS OF CITIES. THE CITY OF IMPERIAL BEACH IS CURRENTLY NEAR BANKRUPTCY, AND THE CITIES OF EAST PALO ALTO AND RIO VISTA HAVE BEEN ON THE VERGE OF FINANCIAL DISASTER FOR SEVERAL YEARS.

THE FINANCIAL PROBLEMS OF COUNTIES MAY BE WORSE BECAUSE OF THEIR DIRECT LINK TO THE STATE AND THEIR INABILITY TO ADEQUATELY CONTROL THE EXPENDITURE SIDE OF THEIR BUDGETS. HOWEVER, THE ANSWER TO THEIR PROBLEMS IS NOT, AND SHOULD NOT BE, TO DIVERT CITY MUNICIPAL REVENUE SOURCES TO FUND STATE PROGRAMS CARRIED OUT BY THE COUNTIES. THE EFFECT OF THIS WOULD BE TO REQUIRE CITIES TO RAISE THEIR TAXES TO MAKE UP FOR MUNICIPAL REVENUES SHIFTED TO COUNTIES.

THIS IS AN UNACCEPTABLE SOLUTION THAT WILL BE VIGOROUSLY OPPOSED BY ALL 453 CITIES IN THE STATE.

AT THE SAME TIME, THE CITIES ARE SYMPATHETIC TO AND SHARE THE CONCERN FOR THE FINANCIAL PLIGHT OF COUNTIES, PARTIALLY BECAUSE WE ARE IN A SIMILAR POSITION. PAGE 17 OF YOUR STAFF REPORT RAISES THE MOST IMPORTANT POLICY QUESTION FOR DEALING WITH THE CAUSE, RATHER THAN THE SYMPTOMS, OF THE ANNEXATION DEBATE. THE LEAGUE FEELS THE ANSWER TO THE LAST POLICY QUESTION ON THAT PAGE IS: YES, THE STATE SHOULD GIVE COUNTIES A NEW REVENUE SOURCE TO REDUCE THE PRESSURE TO CHASE REVENUE-PRODUCING LAND USES.

A PLAN FOR COOPERATION

IN JANUARY, 1988, THE LEAGUE OF CALIFORNIA CITIES APPOINTED 10 PEOPLE TO A TASK FORCE ON REGIONAL REVENUES AND RESPONSIBILITIES. THE ASSIGNMENT OF THIS TASK FORCE WAS TO FOCUS ON HOW CITIES AND COUNTIES CAN WORK TOGETHER IN DEVELOPING STABLE FUNDING FOR LOCAL GOVERNMENT. AFTER SEVERAL MEETINGS, THE LEAGUE TASK FORCE INVITED THE COUNTY SUPERVISORS ASSOCIATION OF CALIFORNIA TO APPOINT A SIMILAR TASK FORCE TO MEET JOINTLY TOWARD ACCOMPLISHING THIS OBJECTIVE.

THE JOINT LEAGUE/CSAC TASK FORCE FIRST MET ON OCTOBER 7, 1988, AND HAS MET REGULARLY SINCE TO IDENTIFY ISSUES, OBJECTIVES AND POTENTIAL APPROACHES FOR COOPERATION. WHILE THERE ARE CLEARLY NUMEROUS INCIDENCES OF CONFLICT BETWEEN CITIES AND COUNTIES LOCALLY AND BEFORE THE LEGISLATURE, THE CITY AND COUNTY MEMBERS OF THE JOINT TASK FORCE HAVE WORKED HARD TO OVERCOME THOSE DIFFERENCES AND FOCUS ON COMMON INTERESTS AND OPPORTUNITIES FOR WORKING TOGETHER.

ATTACHED TO MY WRITTEN TESTIMONY IS A COPY OF AN ARTICLE FROM THE NOVEMBER, 1989 ISSUE OF THE GOLDEN STATE REPORT, WHICH ACCURATELY DESCRIBES HOW CITIES AND COUNTIES ARE LOOKING FOR AN END TO THE INFIGHTING. THE JOINT LEAGUE/CSAC TASK FORCE HAS RECOMMENDED TO THE BOARDS OF DIRECTORS OF THE LEAGUE AND CSAC A PLAN FOR COOPERATION. A FUNDAMENTAL ELEMENT OF THIS JOINT REPORT IS A RECOGNITION THAT (1) PROBLEMS WHICH COUNTIES FACE IN ADEQUATELY FINANCING THEIR RESPONSIBILITIES EVENTUALLY CREATE PROBLEMS FOR CITIES; AND (2) THE CONTINUING BATTLES BETWEEN CITIES AND COUNTIES ARE COUNTER-PRODUCTIVE AND WILL NOT MAKE A SIGNIFICANT DIFFERENCE IN COUNTIES' LONG-TERM FINANCIAL CONDITION. IN ORDER TO FOCUS ON THE LARGER REVENUE ISSUES FACING LOCAL GOVERNMENT, THE JOINT TASK FORCE AGREED THAT A BETTER APPROACH IS TO CONCENTRATE OUR RESPECTIVE RESOURCES ON THESE ISSUES AND DECLARE A MORATORIUM ON

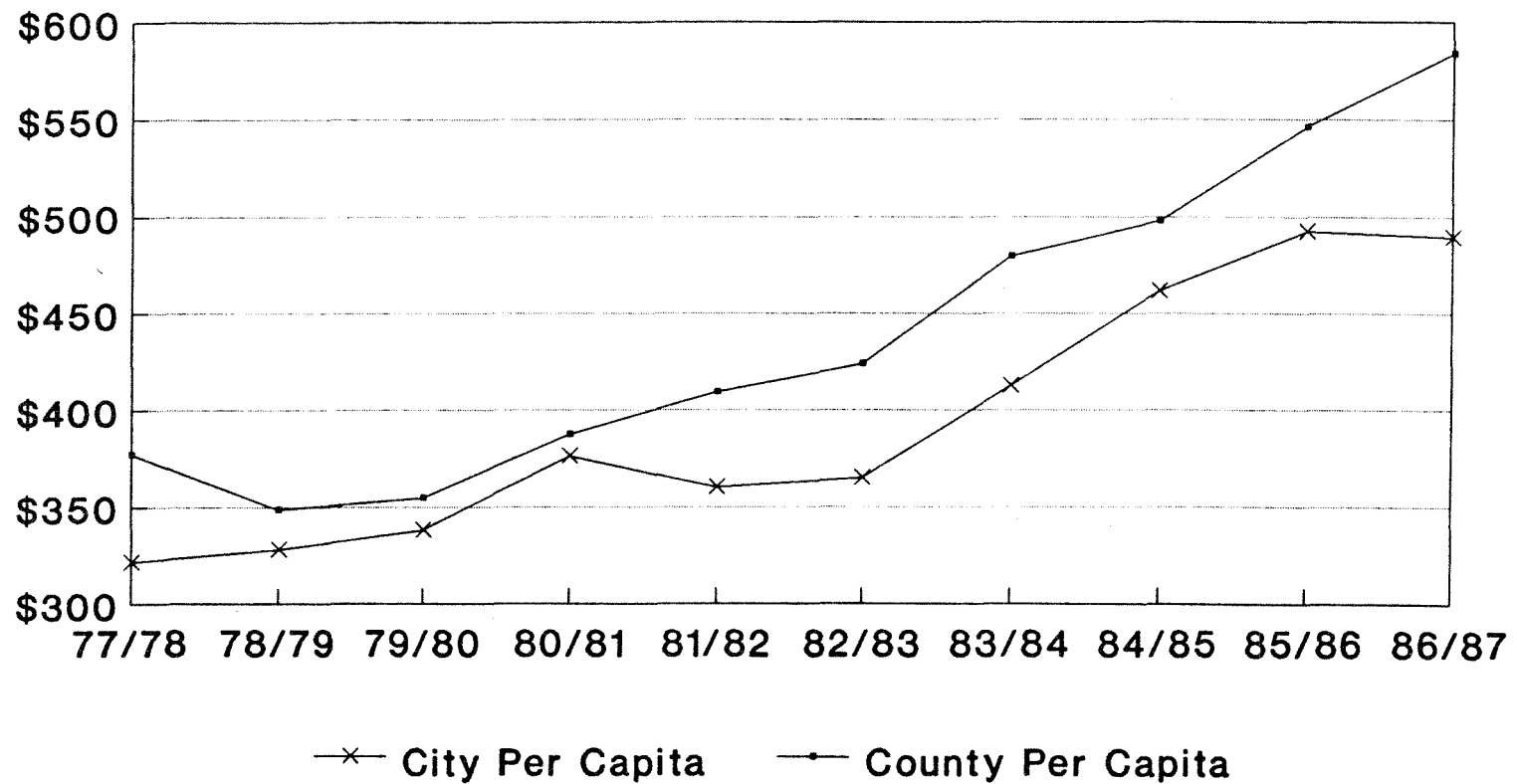
LEGISLATION THAT WOULD AFFECT ALLOCATION OF EXISTING REVENUES BETWEEN CITIES AND COUNTIES. IN SHORT, AS ONE TASK FORCE MEMBER SAID, WE SHOULD STOP TRYING TO "PICK EACH OTHERS POCKETS" AND FOCUS ON LONG-TERM FINANCIAL SOLUTIONS.

TO ACHIEVE THIS, THE LEAGUE'S BOARD OF DIRECTORS HAS APPROVED THE JOINT TASK FORCE RECOMMENDATION WHICH CALLS FOR (1) A MORATORIUM ON SPONSORSHIP OR SUPPORT OF ANY LEGISLATION THAT WOULD NEGATIVELY AFFECT THE DISTRIBUTION OF LOCAL REVENUE BETWEEN CITIES AND COUNTIES; (2) THE LEAGUE AND CSAC TO WORK JOINTLY TO ENSURE THAT CITIES AND COUNTIES ARE ADEQUATELY FUNDED; AND (3) THE LEAGUE AND CSAC TO BECOME PARTNERS IN SECURING STRUCTURAL RELIEF FOR LOCAL GOVERNMENT FUNDING PROBLEMS IN CALIFORNIA. TOWARD ACCOMPLISHING THIS PLAN, THE LEAGUE'S BOARD OF DIRECTORS ALSO APPROVED THE FORMATION OF A NEW CITY/COUNTY COMMITTEE IN 1990 WHOSE RESPONSIBILITIES WOULD INCLUDE ESTABLISHING AN ANNUAL LEAGUE/CSAC JOINT LEGISLATIVE PROGRAM, AND RESOLVING CONFLICTS BETWEEN CITIES AND COUNTIES ON AN ON-GOING BASIS.

THANK YOU FOR THE OPPORTUNITY TO REPRESENT THE LEAGUE OF CALIFORNIA CITIES AT THIS HEARING.

Exhibit I: General Revenues

City & County Per Capita



(Per Capita/Actual Dollars)
Hundreds of Dollars
Excludes Bonds and Enterprise Revenues

NOTEBOOK

Local government looks for an end to the infighting

Cities and counties, both units of local government, would seem to have common interests.

But they are often a house divided, especially when it comes to lobbying in Sacramento.

Cities complain that counties are trying to stick them with the tab for services historically provided by counties, such as property tax collection.

Counties complain that cities use redevelopment and incorporation to snatch county property-tax revenue. When counties got a major bailout from a trial-court funding shift, cities forced an amendment giving them some of the money.

Leaders on both sides would like to bury the hatchet — or at least wield it jointly to carve a larger piece of the Capitol pie for local government.

Last year, the League of California Cities and the County Supervisors Association of California formed a task force to seek a solution.

What was formally titled the Re-

gional Revenues and Responsibility Task Force quickly became known as the "three Rs" task force.

"We should stop picking each other's pockets and start working on a long-term solution," said James Harrington, League lobbyist, quoting one member.

There were 10 members from each group and the co-chairwomen were Dublin Mayor Linda Jeffery and Monterey County Supervisor Barbara Shipnuck.

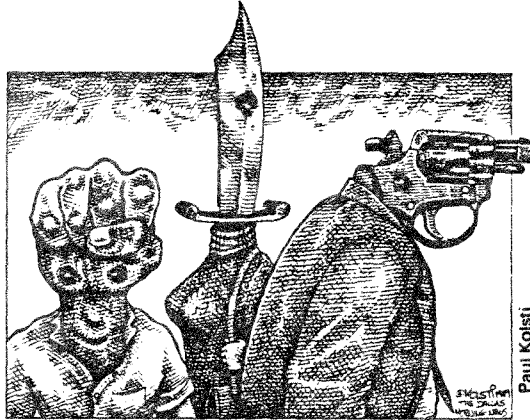
They proposed a peace pact that would have cities and counties work on a joint legislative program, declare a moratorium on bills that affect each other financially and create a high-level committee to prepare the legislative

program and to resolve any disputes.

In July, the League board approved the plan in concept. But CSAC has delayed action and is scheduled to discuss the plan at its annual meeting this month.

The sticking point: the moratorium. "Right now the deck, at least by our accounting, is stacked in the favor of the cities," says Daniel Wall, a CSAC lobbyist.

With utility fees and other revenue sources, cities are nearly independent of state revenue. But since Proposition 13 cut the property tax, counties have struggled to provide municipal services and state-mandated health, welfare and criminal justice services.



'Go north,' rural counties urge business

A bleak picture of the financial condition of rural counties was painted by a report earlier this year.

The conclusion in the year-long study by Ralph Andersen & Associates for the Regional Council of Rural Counties:

It will be difficult for rural counties to maintain current service levels, let alone meet new demands.

With stagnant local tax bases, rural counties must meet increasing costs for state-mandated programs and growing demands for public works.

One attempt to turn the tide is a program to attract industrial development in 22 Northern California counties.

The counties, the state Department of Commerce and Pacific Gas and Electric have hired McElroy Communica-

tions and Citadel Press to mount a \$25,000 advertising campaign.

What can the counties offer business? They say they have a lower cost of business and a higher quality of life for employees.

The slogan for the campaign is "Another California," with the "t" taking the form of an arrow pointing north.

Last-minute help to keep 'em down on the farm

In 1965, California began a program that gives farmers a property-tax cut if they agree to keep their land undeveloped and in agriculture or open space.

The Williamson Act is named after John Williamson, a former assemblyman from Bakersfield.

For years, financially strapped counties have complained that the state has

not raised its payments for the program since 1976, while inflation has climbed 117 percent.

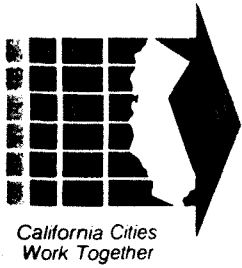
Glenn County announced that it would not renew its Williamson Act contracts next year if the state does not offset lost property-tax revenue. Other counties were considering similar moves.

But Gov. Deukmejian signed a bill last month, AB 284 by Assemblyman Tom Hannigan (D-Fairfield), that will increase Williamson Act payments by \$5 million for one year.

Hannigan's bill originally called for \$17.6 million. For a time, it looked like there might be no relief at all.

Then Hannigan and co-author Sen. Jim Nielsen (R-Rohnert Park) held a last-minute meeting with the governor, who uncharacteristically loosened a number of purse strings this year.

The bill gives \$119,479 to Tehama, \$89,536 to Butte, \$59,273 to Glenn and \$54,245 to Sonoma.



League of California Cities

1400 K STREET • SACRAMENTO, CA 95814 • (916) 444-5790

JOINT HEARING OF THE SENATE AND ASSEMBLY LOCAL GOVERNMENT COMMITTEES

ON

"LAND USE AND LOCAL REVENUE SHARING: PLAYING THE ZERO-SUM GAME"

FRIDAY, NOVEMBER 17, 1989

**TESTIMONY OF JIM HARRINGTON
ASSISTANT DIRECTOR FOR LEGISLATIVE/POLICY DEVELOPMENT
LEAGUE OF CALIFORNIA CITIES**

INTRODUCTION

GOOD MORNING. MY NAME IS JIM HARRINGTON, REPRESENTING THE LEAGUE OF CALIFORNIA CITIES AND MY TESTIMONY TODAY WILL SUPPLEMENT THE INFORMATION PROVIDED FOR YOU BY IOLA WILLIAMS, PRESIDENT-ELECT OF THE LEAGUE OF CALIFORNIA CITIES. I HOPE TO PROVIDE YOU WITH INFORMATION AND DATA THAT WILL HOPEFULLY PLACE THE ISSUES BEFORE YOU IN A FACTUAL PERSPECTIVE. I WOULD LIKE TO ADDRESS FOUR AREAS TODAY WHICH ARE (1) THE FISCAL CONDITION OF CITIES AND COUNTIES AS IT RELATES TO QUESTIONS OF TAX SHARING; (2) WHY URBAN DEVELOPMENT SHOULD BE IN CITIES; (3) DATA COLLECTED FROM CITIES REGARDING

THEIR EXPERIENCE ON ANNEXATION OVER THE LAST FIVE YEARS; AND
(4) WHAT, IF ANY, CHANGES ARE NEEDED IN STATE LAW.

THE FISCAL CONDITION OF CITIES AND COUNTIES RELATIVE TO ISSUES OF
TAX SHARING

AS NOTED BY IOLA WILLIAMS' TESTIMONY, THE LEAGUE
ACKNOWLEDGES AND SYMPATHIZES WITH THE APPARENT FISCAL
PLIGHT OF MANY COUNTIES, ESPECIALLY THE RURAL COUNTIES. THIS,
TOGETHER WITH THE FISCAL PROBLEMS OF CITIES, HAS LED TO THE
PROPOSED PLAN FOR COOPERATION BETWEEN CITIES AND COUNTIES,
EXPLAINED BY PRESIDENT-ELECT WILLIAMS.

WHILE WE SHARE THE CONCERN REGARDING COUNTY FISCAL
PROBLEMS, THE LEAGUE IS UNDERSTANDABLY EVEN MORE CONCERNED
ABOUT THE FISCAL CONDITION OF CITIES. IN RECENT YEARS YOU
HAVE HEARD OF COUNTY PROBLEMS WHICH HAVE LED SOME TO THE
BRINK OF BANKRUPTCY. AT THE SAME TIME, WE HAVE LIKEWISE
HEARD OF MANY CITIES IN A SIMILAR SITUATION, SUCH AS THE CITIES
OF IMPERIAL BEACH, RIO VISTA, AND EAST PALO ALTO. IN ORDER TO
IDENTIFY HOW CITIES ARE DOING FINANCIALLY, THE LEAGUE HAS JUST
COMPLETED A STUDY CONDUCTED OVER THE LAST SIX MONTHS WHICH
INVOLVED A DETAILED EXAMINATION OF THE FISCAL CONDITION OF
CITIES STATEWIDE OVER THE LAST TEN YEARS.

IF I MAY START WITH THE CONCLUSION, IT IS THAT THERE SIMPLY IS NOT ENOUGH REVENUE FOR LOCAL GOVERNMENT TO PERMIT ANY SERIOUS CONSIDERATION OF LOCAL TAX SHARING. SINCE WE INCREASINGLY FIND OURSELVES IN COMPETITION FOR REVENUES IN THE ZERO-SUM FINANCIAL GAME SINCE PROPOSITION 13, LET'S LOOK AT THE FISCAL CONDITION OF CITIES.

WHEN ADJUSTED FOR INFLATION, TOTAL CITY REVENUES GREW AT AN AVERAGE OF ONLY 0.5 PERCENT PER YEAR. THIS IS NOT ENOUGH REAL GROWTH IN REVENUES TO KEEP UP WITH THE POPULATION GROWTH IN OUR CITIES. ON A PER CAPITA BASIS, CITY REVENUES ACTUALLY DECLINED BY 16 PERCENT OVER THE LAST TEN YEARS, WHEN ADJUSTED FOR INFLATION.

ONE OF THE PRIMARY REASONS FOR THIS REVENUE DECLINE HAS BEEN REDUCTIONS IN REVENUES FROM THE STATE AND FEDERAL LEVEL THAT WERE PREVIOUSLY SHARED WITH LOCAL GOVERNMENT. IF THERE IS A TAX SHARING PROBLEM, IT IS REALLY NOT BETWEEN LOCAL GOVERNMENTS BUT BETWEEN THE STATE AND FEDERAL LEVELS AND LOCAL GOVERNMENT. PER CAPITA FEDERAL REVENUE TO CITIES

DROPPED BY 75 PERCENT OVER THE LAST TEN YEARS, WHEN ADJUSTED FOR INFLATION.

CITIES AND COUNTIES ARE BOTH HURTING FINANCIALLY. FOUR EXHIBITS ATTACHED TO MY WRITTEN TESTIMONY GRAPHICALLY DEMONSTRATE THIS PROBLEM. EXHIBIT 1 SHOWS THE GROWTH IN GENERAL REVENUES FOR BOTH CITIES AND COUNTIES OVER THE TEN-YEAR PERIOD OF 1977-78 THROUGH 1986-87. COUNTIES HAVE ACTUALLY GROWN SOMEWHAT FASTER THAN CITIES, AT 55 PERCENT COMPARED TO 52 PERCENT OVER THAT TEN-YEAR PERIOD.

EXHIBIT 2 SHOWS THE PER CAPITA SALES TAX GROWTH FOR CITIES AND COUNTIES, AND THE GROWTH OVER THE LAST TEN YEARS HAS BEEN RELATIVELY FLAT FOR BOTH. IT'S IMPORTANT TO NOTE THAT PER CAPITA SALES TAX REVENUE FOR COUNTIES AND CITIES HAVE BOTH GROWN AT NEARLY THE SAME RATE. THIS IS IN SPITE OF THE 38 INCORPORATIONS AND HUNDREDS OF ANNEXATIONS OVER THIS PERIOD.

EXHIBITS 3 AND 4 DEMONSTRATE HOW CITY AND COUNTY REVENUES ARE NOT KEEPING PACE WITH INFLATION. EXHIBIT 3 SHOWS TOTAL GENERAL REVENUES FOR CITIES AND COUNTIES AFTER ADJUSTING FOR INFLATION OVER THE LAST TEN YEARS. AS YOU CAN SEE, THERE HAS BEEN A STEADY DECLINE FOR CITIES AND COUNTIES ON A PER CAPITA

BASIS, ALTHOUGH COUNTIES APPEAR TO BE MOVING UPWARD AGAIN IN THE LAST FEW YEARS.

EXHIBIT 4 GRAPHICALLY DEMONSTRATES THE CHANGE IN SALES TAX AFTER ADJUSTING FOR INFLATION. BOTH COUNTIES AND CITIES HAVE EXPERIENCED A GENERAL DECLINE IN SALES TAX REVENUE AS MEASURED BY REAL DOLLARS AFTER INFLATION. IT'S IMPORTANT TO NOTE THAT THE DECLINE IS SIMILAR FOR BOTH CITIES AND COUNTIES.

CITIES' EXPERIENCE WITH ANNEXATIONS OVER THE LAST FIVE YEARS

IN SEPTEMBER OF THIS YEAR, THE LEAGUE SENT A SURVEY QUESTIONNAIRE TO ALL CITIES. WE HAVE RECEIVED 111 RESPONSES AND ARE STILL GETTING SOME QUESTIONNAIRES BACK, THEREFORE THE RESULTS AT THIS TIME MUST BE VIEWED AS SOMEWHAT PRELIMINARY. A SUMMARY REPORT OF THIS SURVEY IS ATTACHED TO MY WRITTEN TESTIMONY. LET ME PROVIDE NOW A VERY BRIEF SUMMARY OF THOSE RESULTS.

OF THE 111 CITIES RESPONDING, 77 INDICATED THAT THEY HAD INITIATED ANNEXATIONS IN THE LAST FIVE YEARS. OF THAT NUMBER, 80 PERCENT FELT THAT THE NEGOTIATIONS WITH COUNTIES WERE CONDUCTED ON AN AMICABLE BASIS. HOWEVER, FOURTEEN CITIES, REPRESENTING 20 PERCENT OF THE ANNEXATIONS, INDICATED THAT

THE COUNTY HAD REFUSED TO NEGOTIATE A PROPERTY TAX EXCHANGE AGREEMENT AND THREATENED TO BLOCK THE ANNEXATION UNTIL ADDITIONAL CONCESSIONS WERE MADE. _

SOMETHING THAT MAY HAVE HELPED PROVIDE FOR THE AMICABLE NEGOTIATIONS IN 80 PERCENT OF THE CASES IS MASTER AGREEMENTS THAT WERE NEGOTIATED IN ADVANCE COVERING PROPERTY TAX EXCHANGES. FORTY-FOUR PERCENT OF THE CITIES INDICATED THEY HAD MASTER AGREEMENTS, WHILE 56 PERCENT DID NOT. ONLY FOUR CITIES INDICATED THAT THEY DID NOT UTILIZE THEIR MASTER AGREEMENT FOR THEIR ANNEXATIONS AND NEGOTIATED A SPECIAL AGREEMENT WITH THE COUNTY. HOWEVER, ONE OF THE PROBLEMS WITH THESE MASTER AGREEMENTS IS THAT THEY ARE NOT REALLY ENFORCEABLE, AND AT LEAST TWO COUNTIES HAVE UNILATERALLY WALKED AWAY FROM THESE AGREEMENTS.

SEVENTY-ONE OUT OF THE 77 CITIES WITH ANNEXATIONS, OR 92 PERCENT, INDICATED THAT THEY HAD REVENUE EXCHANGES WITH THE COUNTY AND ALL OF THOSE INCLUDED AT LEAST A PROPERTY TAX EXCHANGE. ONLY 4 OF THE 77 (6 PERCENT) INVOLVED SALES TAX IN ADDITION TO THE PROPERTY TAX EXCHANGE, AND ANOTHER 13 CITIES (18 PERCENT) HAD SOME OTHER ARRANGEMENT REGARDING OTHER REVENUES OR COSTS.

IT HAS OFTEN BEEN CLAIMED THAT CITIES ARE ANNEXING ALL OF THE PRIME COMMERCIAL DEVELOPMENT AND THEREBY TAKING THE TAX BASE OF COUNTIES. OUR RESULTS INDICATE THAT 87 PERCENT OF THE ANNEXATIONS DID NOT INVOLVE ANNEXATIONS OF COMMERCIAL DEVELOPMENT. APPROXIMATELY 70 PERCENT OF THE ANNEXATIONS WERE PRIMARILY RESIDENTIAL OR AGRICULTURAL LAND AND ANOTHER 18 PERCENT WAS VACANT LAND.

EVEN WITH RESPECT TO PLANNED DEVELOPMENT FOR CURRENTLY VACANT LAND, THE ANNEXATIONS HAVE BEEN MOSTLY RESIDENTIAL. ONLY EIGHT CITIES, OR 10 PERCENT, WERE PLANNED FOR RETAIL COMMERCIAL BASED UPON THE PREZONING AGREEMENT FOR THE ANNEXATIONS. THIS CLEARLY DEMONSTRATES THAT CITIES ARE NOT "PICKING OFF THE PLUMS." FRANKLY, THERE JUST SIMPLY ARE NOT THAT MANY PLUMS TO BE PICKED.

BECAUSE OF THE CONCERN FOR THE TIME ALLOWED FOR THE PROPERTY TAX EXCHANGE IN NEGOTIATIONS, WHICH WAS SPECIFICALLY ADDRESSED BY ASSEMBLY MEMBER CORTESE'S AB 694, WE ASKED CITIES HOW THEY FELT ABOUT THE TIMING FOR THOSE NEGOTIATIONS. AS YOU KNOW, CURRENT LAW PROVIDES A 30-DAY STATUTORY DEADLINE FOR NEGOTIATION OF A PROPERTY TAX REVENUE TRANSFER.

SEVENTY-TWO PERCENT OF THE CITIES RESPONDING TO OUR QUESTIONNAIRE INDICATED THAT THEY FELT THE TIME FOR NEGOTIATIONS WAS TOO SHORT, WITH ONLY EIGHT CITIES FEELING THAT THE TIME WAS TOO LONG. FORTY PERCENT OF THE CITIES INDICATED THAT THEIR LAST ANNEXATION TOOK LONGER THAN THE 30-DAY PERIOD CURRENTLY PROVIDED IN LAW.

URBAN DEVELOPMENT SHOULD BE IN CITIES

ANNEXATIONS HAVE LONG BEEN THE MEANS FOR ENSURING THAT URBAN DEVELOPMENT OCCURS IN CITIES, WHICH ARE THE LEVEL OF GOVERNMENT BEST PREPARED FOR URBAN SERVICES. WE ARE IN THE MUNICIPAL SERVICES BUSINESS. DEVELOPMENT IN CITIES PREVENTS URBAN SPRAWL OR LEAPFROG DEVELOPMENT AND PROMOTES IN-FILL INSTEAD. A STUDY COMPLETED A FEW YEARS AGO BY THE SAN DIEGO ASSOCIATION OF GOVERNMENTS (SANDAG) DETERMINED THAT IN SAN DIEGO COUNTY, WHENEVER THE SAME SERVICES ARE PROVIDED BY THE COUNTY AND THE CITY, THE SERVICE IS ALWAYS DONE AT LESS COST BY THE CITY, AND GENERALLY AT A HIGHER LEVEL OF SERVICE.

STATE POLICY HAS LONG-PROMOTED ANNEXATIONS BY ESTABLISHING SPHERES OF INFLUENCE, URBAN SERVICE AREAS, AND LOCAL AGENCY FORMATION COMMISSIONS WHOSE PURPOSE, AMONG OTHER THINGS, IS TO PREVENT THE PROLIFERATION OF SPECIAL PURPOSE AGENCIES.

WHEN URBAN DEVELOPMENT OCCURS IN AN UNINCORPORATED COUNTY AREA, YOU INEVITABLY END UP WITH MORE SPECIAL PURPOSE AGENCIES TO PROVIDE MUNICIPAL SERVICES WHICH WOULD OTHERWISE BE PROVIDED BY A CITY. CITIES ARE THE BEST WAY OF CONSOLIDATING THE BROAD RANGE OF SERVICES NECESSARY FOR URBAN DEVELOPMENT.

FINALLY, CITIES ARE BEST PREPARED TO EFFECTIVELY PLAN AND PROVIDE FOR URBAN DEVELOPMENT.

WHAT, IF ANY, CHANGES ARE NEEDED IN CURRENT LAW?

DURING THE LAST LEGISLATIVE SESSION, THE LEAGUE OPPOSED SB 968 AND AB 2204 WHICH WOULD HAVE REMOVED THE VOTE REQUIREMENT TO SHARE SALES TAX REVENUES. OUR OPPOSITION TO THESE MEASURES WAS SOLELY ON THE BASIS THAT IT WOULD HAVE ADDED FUEL TO THE FIRE IN CURRENT NEGOTIATIONS FOR ANNEXATIONS. THE LEAGUE ACTUALLY SUPPORTED MR. CORTESE'S AB 2204 WHEN IT WAS AMENDED TO EXCLUDE ANNEXATIONS. WE DID NOT OPPOSE AB 2205 OR THE PROVISIONS OF SB 968 WHICH WOULD HAVE FACILITATED PROPERTY TAX REVENUE EXCHANGES.

HOWEVER, THE LEAGUE DOES QUESTION THE ASSUMPTION THAT ADDITIONAL LEGISLATION IS NEEDED IN ORDER FOR TAX SHARING TO

OCCUR. AS NOTED IN YOUR STAFF ANALYSIS, 18 COUNTIES CURRENTLY RECEIVE A SHARE OF SALES TAX REVENUE FROM CITIES. IN FACT, 95 CITIES CURRENTLY SHARE A PORTION OF THEIR SALES TAX; THIS AMOUNTS TO 21 PERCENT OF THE CITIES IN CALIFORNIA. THIS WAS DONE UNDER CURRENT LAW.

IN ADDITION, CITIES HAVE ALSO WORKED OUT COST-SHARING AGREEMENTS AMONG CITIES, AS WELL AS WITH COUNTIES. FOR EXAMPLE, IN ORANGE COUNTY TWO SEPARATE ARRANGEMENTS HAVE BEEN MADE TO SHARE THE COST OF TRANSPORTATION IMPROVEMENTS. APPROXIMATELY SEVEN YEARS AGO THE CITIES OF COSTA MESA, IRVINE, AND SANTA ANA ENTERED INTO AN AGREEMENT TO CONTRIBUTE TO TRANSPORTATION IMPROVEMENTS AND AGREED TO PROVIDE THE NECESSARY MONEY WITHOUT REGARD TO THE LOCATION OF THE PROJECTS. IN THAT CASE, MOST OF THE PROJECTS WERE IN THE CITY OF SANTA ANA.

MORE RECENTLY, THREE YEARS AGO THESE THREE CITIES, AS WELL AS THE CITY OF NEWPORT BEACH AND THE COUNTY OF ORANGE, ENTERED INTO A SIMILAR AGREEMENT TO SHARE THE COST OF TRANSPORTATION IMPROVEMENTS NEEDED IN THE ORANGE COUNTY AIRPORT AREA, SOME OF WHICH WAS IN COUNTY TERRITORY. THESE COST-SHARING AGREEMENTS CONSISTED OF MEMORANDAS OF UNDERSTANDING AND

LETTER AGREEMENTS BASED UPON A DOCUMENTED NEED WHICH INCLUDED A COST BENEFIT ANALYSIS. THIS WAS ACCOMPLISHED UNDER EXISTING LAW.

PROPONENTS OF SB 968 AND AB 2204 HAVE FOCUSED ON THE NEED TO PROMOTE SHARING OF SALES TAX REVENUE, AS OPPOSED TO SHARING SALES TAX RATES WHICH IS CURRENTLY ALLOWABLE UNDER THE BRADLY-BURNS UNIFORM SALES TAX LAW. AS INDICATED BY THE ORANGE COUNTY EXAMPLE, CITIES CAN AND DO SHARE REVENUES AND/OR FINANCING, AND THERE ARE AVAILABLE MECHANISMS TO DO SO INCLUDING LETTER AGREEMENTS AND JOINT POWERS AUTHORITIES. IN SHARING THESE COSTS, THEY ARE USING GENERAL FUND REVENUES, MANY TIMES INCLUDING SALES TAX REVENUES, BUT NOT SPECIFICALLY EARMARKING THOSE SALES TAX REVENUES.

SOME ARGUE THAT A VOTE REQUIREMENT IS APPROPRIATE IF A CITY IS TO SPECIFICALLY EARMARK ITS SALES TAX REVENUE TO ANOTHER AGENCY. SINCE CITIES MUST OBTAIN A VOTE REQUIREMENT TO INCREASE TAXES, IT IS ARGUED THAT IT IS EQUALLY APPROPRIATE TO OBTAIN VOTER APPROVAL TO GIVE UP THOSE TAXES TO ANOTHER ENTITY, WHICH IN TURN COULD REQUIRE A TAX INCREASE TO REPLACE THOSE TRANSFERRED REVENUES.

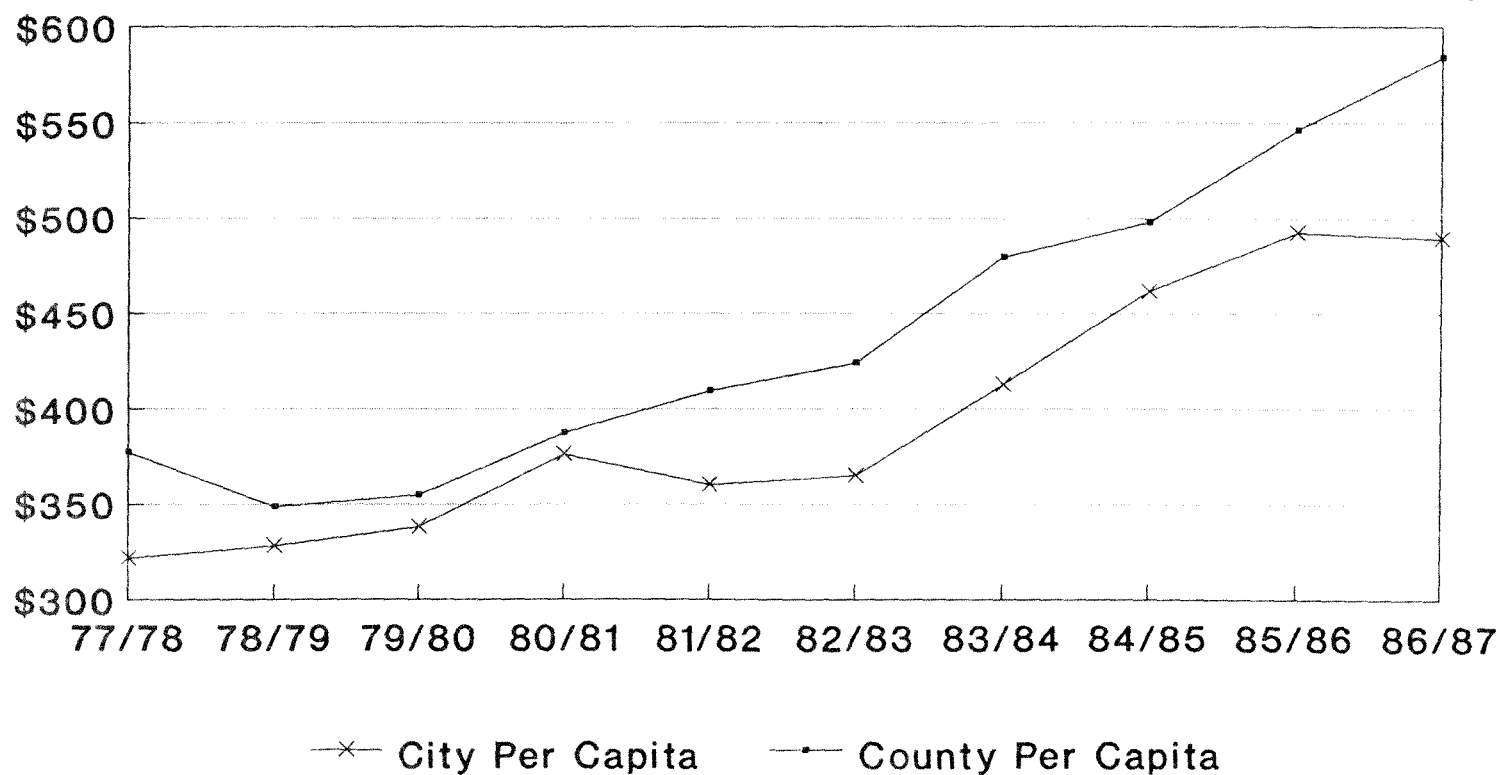
WHERE THE LEAGUE FEELS THERE IS NEED FOR ADDITIONAL LEGISLATION IS IN THE CURRENT PROCESS FOR PROPERTY TAX EXCHANGE AGREEMENTS ON ANNEXATIONS. YOUR STAFF REPORT SETS FORTH SEVERAL POLICY QUESTIONS AS ALTERNATIVES FOR DEALING WITH THIS ISSUE. LEAGUE STAFF HAS WORKED WITH YOUR COMMITTEE STAFF IN DEVELOPING SEVERAL OF THESE ALTERNATIVES, HOWEVER, OUR BOARD OF DIRECTORS HAS NOT HAD AN OPPORTUNITY TO REVIEW AND TAKE A POSITION ON THESE PROPOSALS.

HOWEVER, CONSISTENT WITH EXISTING LEAGUE POLICY, WE STRONGLY FEEL THE LEGISLATURE SHOULD ADDRESS THE CAUSE AND NOT THE SYMPTOMS OF THESE DEBATES OVER THE ECONOMICS OF ANNEXATION. ON PAGE 17 OF YOUR COMMITTEES' STAFF REPORT IS A POLICY PROPOSAL THAT THE LEAGUE CAN, AND DOES, STRONGLY SUPPORT. THE STATE SHOULD PROVIDE COUNTIES WITH A NEW REVENUE SOURCE TO REDUCE THE PRESSURE TO CHASE REVENUE-PRODUCING LAND RESULTING IN INEVITABLE ATTEMPTS TO ROB PETER TO PAY PAUL IN THE ZERO-SUM FINANCIAL GAME. IT HAS OFTEN BEEN STATED THAT CITIES ARE IN A BETTER FINANCIAL POSITION BECAUSE THEY HAVE A BROADER BASE OF REVENUES. I BELIEVE THE DATA I HAVE PRESENTED TO YOU EARLIER SHOWS THAT CITIES AS A WHOLE ARE NOT IN A VERY GOOD FINANCIAL POSITION, BUT WE MAY BE SOMEWHAT BETTER OFF BECAUSE WE DON'T HAVE AS MANY STATE-MANDATED

COSTS. IN THE DAYS BEFORE PROPOSITION 13, COUNTIES COULD INCREASE THE COUNTYWIDE PROPERTY TAX TO MAKE UP FOR ANY UNDERFUNDED STATE PROGRAMS. COUNTIES SHOULD HAVE THAT SAME AUTHORITY TODAY TO LEVY A TAX COUNTYWIDE. HOWEVER, THEY SHOULD NOT BE EMPOWERED TO REDUCE REVENUES OF OTHER AGENCIES IN ORDER TO MAKE UP FOR THEIR UNDERFUNDED PROGRAMS.

Exhibit I: General Revenues

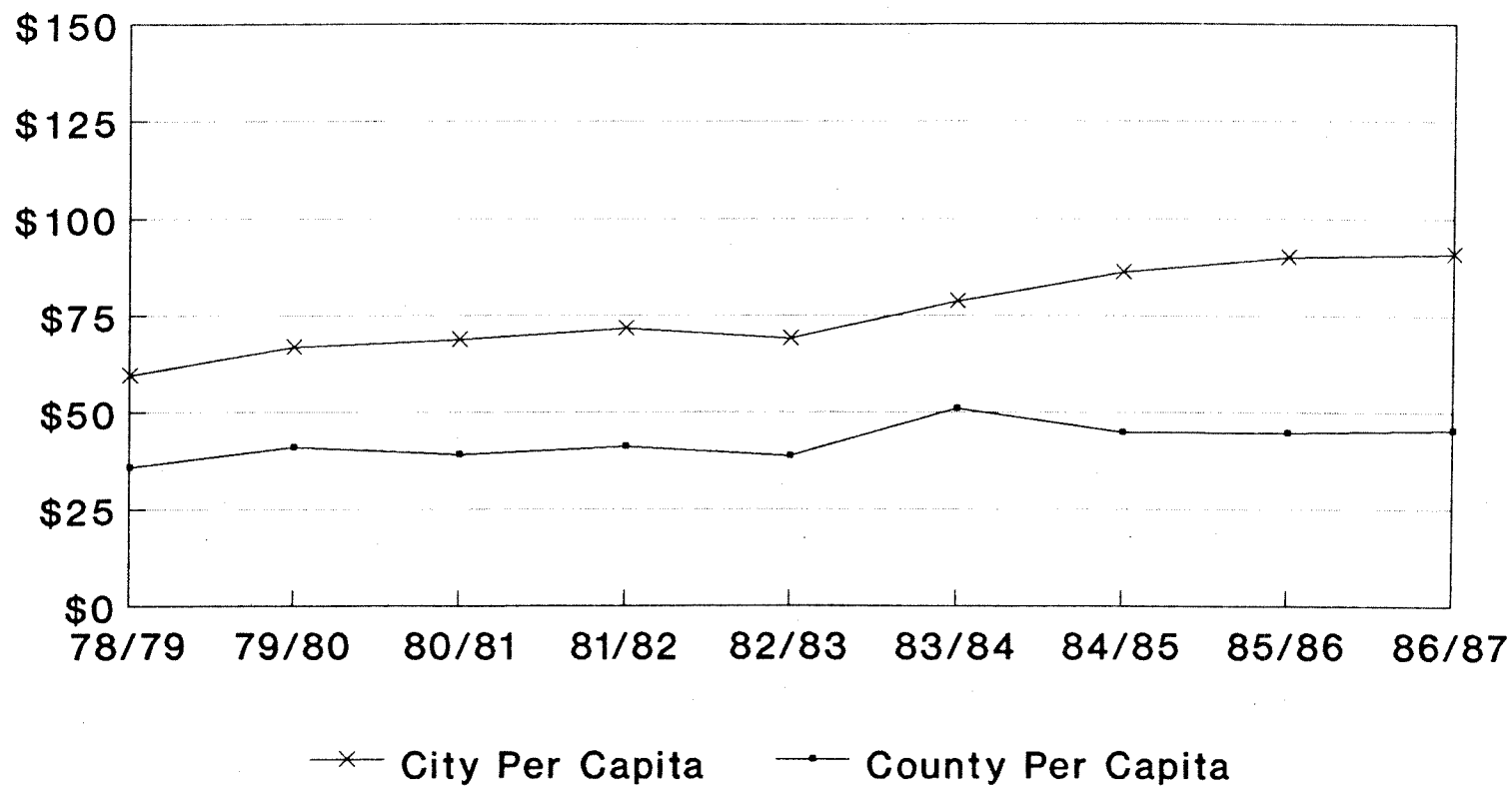
City & County Per Capita



(Per Capita/Actual Dollars)
Hundreds of Dollars
Excludes Bonds and Enterprise Revenues

Source: State Controller

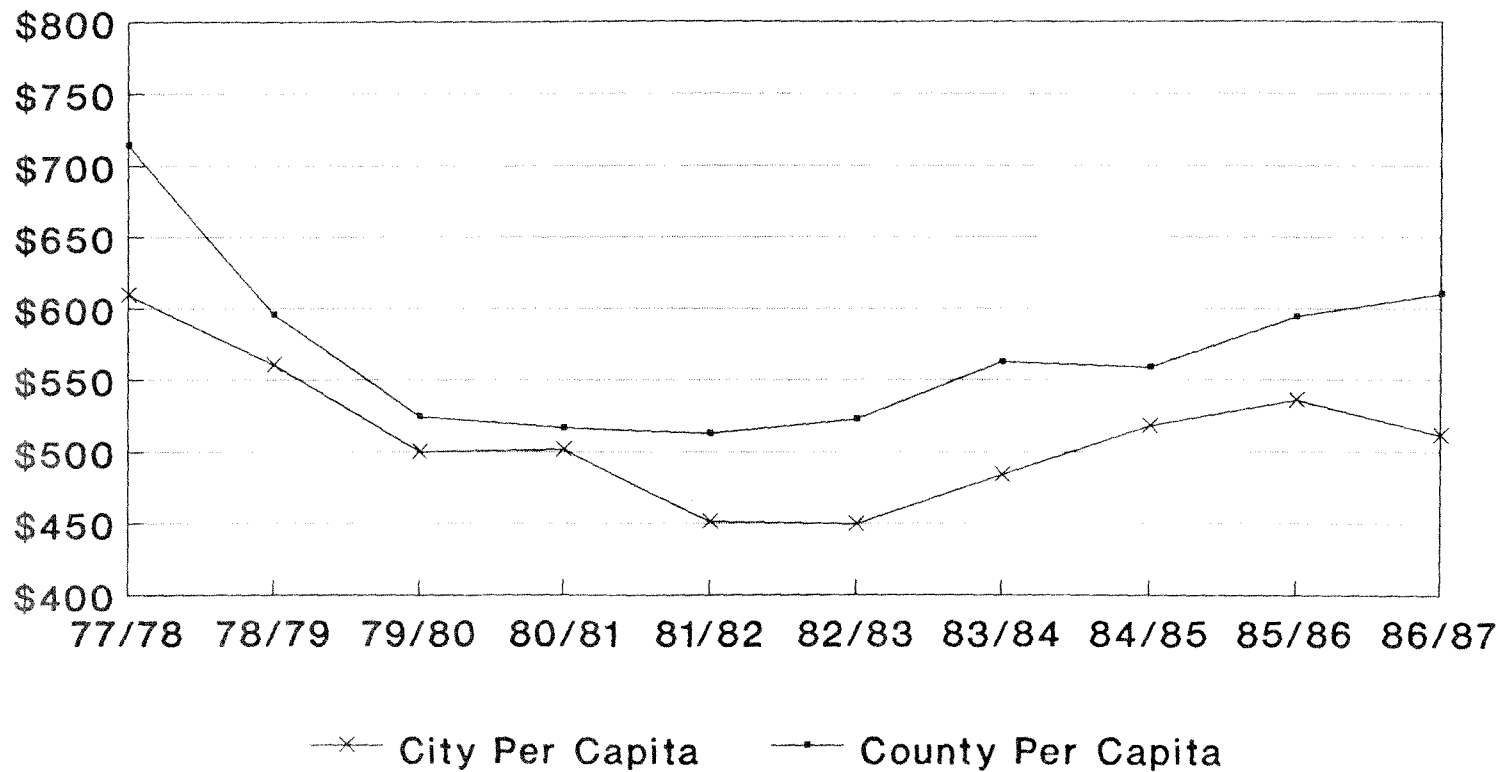
Exhibit II: Sales Tax City & County Per Capita



(Per Capita/Actual Dollars)
Hundreds of Dollars
Excludes Bonds and Enterprise Revenues

Source: State Controller

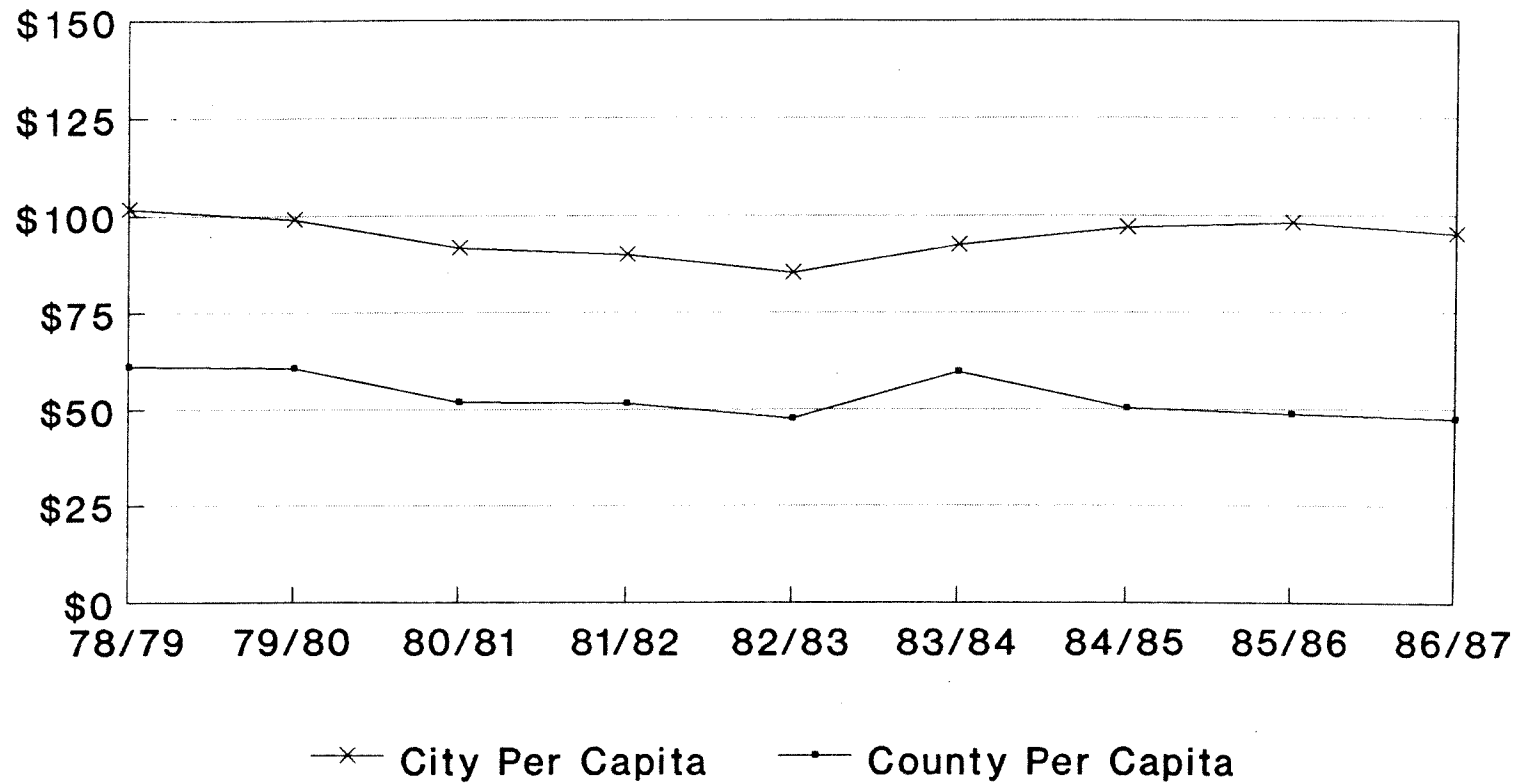
Exhibit III: General Revenues Constant Dollars Per Capita



(Per Capita/Constant Dollars: 1988=100)
Hundreds of Dollars
Excludes Bonds and Enterprise Revenues

Source: State Controller

Exhibit IV: Sales Tax Constant Dollars Per Capita



(Per Capita/Constant Dollars 1988=100)
Hundreds of Dollars
Excludes Bonds and Enterprise Revenues

Source: State Controller



League of California Cities

LEAGUE OF CALIFORNIA CITIES ANNEXATION SURVEY PRELIMINARY FINDINGS

In September of 1989, the League of California Cities mailed a survey to its member cities in order to collect information on annexations statewide. The League was interested in determining the number of annexations occurring in cities, the size of land being annexed, the fiscal impacts on cities, and generally how well annexation procedures are taking place. To obtain the most current information, the survey asked primarily for information pertaining to annexations in the last five years. The results are based on the 111 responses received from cities to date. It is anticipated that more responses will be received in the near future.

SUMMARY FINDINGS

Number of Annexations

- o 77 cities (or 69 per cent) indicated that they had initiated at least one annexation in the past five years; 34 cities (or 31 per cent) indicated that they had not. (Based on 111 responses).

Average Size of Annexation

- o The average size of the most recently completed annexation was 120.7 acres. The size of annexations range from a high of 1200 acres to a low of less than 1 acre.

Annexation Master Agreement

- o 44 percent (49 cities) surveyed had some form of an annexation master agreement with the county regarding how property tax revenues are to be reallocated. The remaining 56 percent (62 cities) did not.
- o In cities' most recent annexation, 8 percent of the cities (4 cities) with master agreements set aside their master agreement and negotiated a special annexation agreement with the county.

Fiscal Impacts

- o 20 cities (or 26 percent) conducted some sort of fiscal impact study prior to their most recently approved annexation. (Based on 77 responses).
- o 71 out of the 77 cities reporting annexations indicated that the annexation most recently approved involved some form of revenue exchange. All the cities reporting revenue exchanges (71 cities) indicated that the annexation involved some form of property tax exchange; 5.6 percent (4 cities) indicated a sales tax exchange; and 18.3 percent (13 cities) had some other arrangement (eg; transient occupancy tax, or a combination of revenues).
- o Of the 71 cities reporting a revenue exchange, 68 cities indicated that revenue exchanges were confined to the annexed area.
- o Of the 71 cities reporting a revenue exchange, the revenue exchange was based on the cost of continuing county services provided to the annexed territory (37 responses):

Prior to Annexation	10 cities
Post Annexation	13 cities
Both Pre- and Post-Annexation	14 cities

- o 60.5 percent (23 cities) reported that the amount of money transferred in the revenue exchange agreement in their most recently approved annexation was based on existing revenues; 15.8 percent (6 cities) indicated the exchange was based on projected revenues; 23.7 percent (9 cities) indicated it was based on both existing and projected revenues. (Based on 38 responses).
- o For 36 percent of the cities (9 cities) with revenue exchanges the amount of money transferred was above the actual cost of county services and for 64 percent of cities (16 cities) the money transferred was below the actual cost of county services. (Based on only 25 responses).

Land Use

- o Cities were asked to identify the principal land use designation the area being annexed could be categorized. The choices were as follows: Residential, retail commercial, office commercial, manufacturing/industrial, agriculture, open space and other. For those cities with an annexation in the last five years, the three most common types of existing land use designations at the time of annexation were as follows:

Residential	33 cities
Agriculture	20 cities
Other (e.g.; vacant)	14 cities

- o With regards to pending annexations, the three most common types of land designations were as follows:

Residential	25 cities
Agriculture	16 cities
Other (e.g.; vacant)	9 cities
- o As set forth in the pre-zoning agreement, cities listed the following as their three most common types of land use designations:

Residential	41 cities
Manufacturing/Industrial	11 cities
Retail Commercial	8 cities
- o For those cities with a pending or proposed annexation, the three most common types of land use designations were as follows:

Residential	39 cities
Retail Commercial	5 cities
Manufacturing/Industrial	4 cities

Annexation Time Frame

- o 72 percent of the cities (21 cities) felt that the time allocation for annexation procedures was too short. 28 percent (8 cities) felt it was too long. (Based on 29 responses).
- o 60 percent (26 cities) responding, indicated that it took 30 days to complete negotiations on the property tax transfer agreement; 23 percent (10 cities) indicated that the process took sixty days; 16 percent (7 cities) indicated that it took 90 days. (Based on 43 responses).

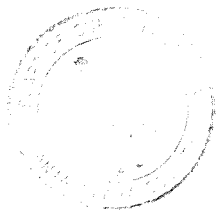
Relations with Other Agencies

- o 80 percent (55 cities) felt annexation negotiations with the county were conducted amicably, while 20 percent (14 cities) felt that they were not. (Based on 69 responses).
- o 21 percent (14 cities) indicated the county had refused to negotiate a property tax exchange agreement. (Based on 68 responses).
- o Overall, 88 percent of the cities (69 cities) felt that the correct agencies were involved in the annexation process. (Based on 78 responses).
- o 43 percent (30 cities) indicated that other districts were included in the annexation negotiations. (Based on 70 responses).

- o 43 cities out of 72 responding cities indicated that LAFCO was included in the annexation process, and of those, 14 (or 33 percent) indicated that they felt LAFCO often supported one side over another.
- o 59 percent of the cities (50 cities) responding felt that the role of LAFCO was helpful in the annexation process. While 17 percent (14 cities) felt that the organization was a hindrance. The remaining 24 percent (20 cities) felt that LAFCO could be both a help and a hindrance, or believed that LAFCO took an overall neutral stance. (Based on 84 responses).
- o 56 percent of the cities (41 cities) indicated that residents within annexed areas were generally supportive of the annexation process. 15 percent (11 cities), saw residents as non-supportive, and 29 percent (21 cities) felt that residents were neutral towards the whole process. (Based on 73 responses).

Future Annexations

- o Over 85 percent (70 cities) indicated that they had plans to annex land in the future, while 15 percent (12 cities) indicated they had no such plans. (Based on 82 responses).



BOARD OF SUPERVISORS
COUNTY OF SANTA CLARA
COUNTY GOVERNMENT CENTER, EAST WING
70 WEST HEDDING ST. / SAN JOSE, CA 95110 / (408) 299-2323

ROD DIRIDON
CHAIRPERSON
SUPERVISOR FOURTH DISTRICT

November 17, 1989

TO: Local Government Committee
Senate/Assembly Hearings

FROM: Supervisor Rod Diridon
Chair, Metropolitan Transportation Commission
Chair, BAY VISION 2020

RE: Informational Packets

Attached is an informational packet that describes BAY VISION 2020, introduces its newly appointed chair, I. Michael Heyman, and provides a synopsis of the process and a roster listing all convenors.

CALIFORNIA ENVIRONMENTAL TRUST

Hearst Building, Room 612
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San Francisco, CA 94103
(415) 543-1855

TRUSTEES

Melvin Lane, Chairman
John Bryson, Vice Chairman
Mary Nichols, Secretary
Norman Livermore, Treasurer
Denis Hayes
Ray Remy
Richard Wilson

PRESIDENT
Joseph Bodovitz

FOR IMMEDIATE RELEASE (WED., OCT. 11, 1989)

CONTACT: Joseph E. Bodovitz
(415) 543-1855

UC Berkeley Chancellor Ira Michael Heyman said today he has accepted the chairmanship of the BAY VISION 2020 Commission.

The Commission is sponsored by Bay Area leaders of local government, business, and environmental organizations and will consist of 25 leading citizens from all parts of the Bay Area. The soon-to-be-appointed Commission will make recommendations as to what the Bay Area should be like in the year 2020, and what steps should be taken during the intervening years to help bring that vision about.

The group will focus its efforts on the interrelationship of land use, transportation, housing, economic, and environmental issues, and on the ways governments deal with these issues that cross city and county boundaries.

In accepting the chairmanship, Heyman said:

"I'm honored to have been asked to head this important work, with the broad support it has achieved. Clearly, we will need vigorous efforts to keep the Bay Area the special place it is now, with a strong economy and an exceptional environment."

The BAY VISION 2020 Commission is a partnership between the region's leaders in local government, who have joined together as the BAY VISION 2020 Convenors, and the Regional Issues Forum, which is sponsored by the Bay Area Council and the Greenbelt

Alliance. Joseph E. Bodovitz, president of the California Environmental Trust, is principal consultant to the group.

Leaders of all three groups immediately praised Heyman's acceptance.

Santa Clara County Supervisor Rod Diridon, chair of the BAY VISION 2020 Conveners' nominating committee and also chair of the Metropolitan Transportation Commission, said:

"We're delighted that someone of Chancellor Heyman's outstanding abilities and reputation will chair this important endeavor. With his leadership, the commission could help re-define the region's public and private land-use policies."

Paul M. Cook, Chairman of the Bay Area Council and Chairman and CEO of Raychem Corp., said:

"The time has come for us to find new solutions to the way planning decisions are made in the Bay Area. The business community understands that growth questions, quality of life issues, and the health of the region's economy are interrelated, and cry out for a thoughtful and innovative approach. The BAY VISION 2020 effort is the most promising initiative in many years."

Greenbelt Alliance President Robert Mang said:

"The commission will start with unprecedented joint support from leaders of Bay Area social, environmental, business, and government organizations. As a public-private partnership for the entire region, it needs the support of all of us who live here if we are going to succeed in resolving the critical problems that face the Bay Area."

Heyman, who has been Berkeley Chancellor for 9½ years, will resign his post at the end of the school year in 1990. Prior to

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serving as Chancellor, Heyman taught courses in law and planning at Berkeley, and he has said he will return to his professorial posts.

The new Commission is scheduled to convene in mid-December, and to present conclusions and recommendations at the end of 1990.

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THE BAY VISION 2020 PROCESS
(A Synopsis)

The Commission and its purpose

The BAY VISION 2020 Commission, consisting of 30 distinguished citizens of the San Francisco Bay Area, is being formed to take a fresh, independent look at growth and change in the region.

The Commission will:

- 1) Analyze current issues and trends affecting the future of the Bay Area, including a determination of which issues are of regionwide importance, and what the geographic extent of the Bay Area is likely to be in the year 2020;
- 2) Adopt a general vision for the Bay Area in 2020, with recommendations for specific principles and policies necessary to make that vision a reality; and
- 3) Recommend public and private actions needed during the 1990's to achieve that longer-term vision (i. e. a combination of incentives, sanctions, mandates and forms of governmental organization recommended as appropriate to the private sector as well as local, regional, state and federal governments).

The Commission will focus primarily on issues of population growth and land use that cross city and county boundaries in the Bay Area. These issues include but are not limited to:

- Shortages of affordable housing in the region;
- Increasing distances between job centers and housing;
- Inadequacies in regional transportation;
- Inability of the Bay Area to reconcile land use, transportation, and environmental decisions;
- Trends toward urban sprawl and the consequent loss of open space;
- Steps that may be required by the Federal, State, and regional clean air laws; and
- The need simultaneously to maintain a strong regional economy and to protect the region's physical environment.

The Commission will be balanced to reflect the region's population distribution, ethnicity, sex and employment or primary interest.

A unique public/private effort of three groups in the Bay Area helped to create the Commission. The groups, which do not always agree on conservation and development issues, agree completely on the need for an informed, independent blue-ribbon commission to examine the Bay Area's regional matters. The three groups are: (1) the BAY VISION 2020 Conveners consisting of the local elected leaders, (2) the Bay Area Council representing business and industry, and (3) the Greenbelt Alliance, representing a coalition of regional environmental groups

and other citizen organizations.

The BAY VISION 2020 Commission recognizes that, in addition to strong public concern about land use/transportation/housing issues, there is also strong public interest in other issues such as improving public education, providing help for the homeless, combating drugs, and more effectively providing health care. The Commission's first priority, however, is to deal with issues of land use, housing, transportation, the regional economy, and environmental quality. But the Commission will ensure that its recommendations support efforts to improve education and health care, and to cope with other social issues.

Time Schedule

The BAY VISION 2020 Commission is scheduled to be convened at an organizational meeting on Thursday, December 14.

The Commission will begin its work in January, and will arrive at conclusions and recommendations by the end of 1990. The Commission will ordinarily meet twice a month, a significant commitment of time and energy for its members, and will work with a small staff and with consultant help.

The admittedly tight schedule has four purposes:

- 1) Whatever consensus can be achieved in the Bay Area on these issues will be made known to the new Governor and legislature in January, 1991. While many things can be done by the region, much will depend on state actions. The work of the BAY VISION 2020 Commission is designed to shape a state program.
- 2) Prominent citizens are more apt to contribute the time and energy necessary to make the Commission work if they see that at least a major part of their task is to be completed in one year.
- 3) Deadlines can help focus decisions that are apt to be difficult at best.
- 4) A more leisurely approach would not properly emphasize the urgency of growth and development issues in the Bay Area.

At the same time, a one-year effort will not complete the BAY VISION 2020 Project. None of the Commission's recommendations will take effect without strong efforts on the part of the Commission members and other Bay Area residents who support their work. Thus, a strong follow-up program is necessary and will be developed.

Why the Commission can make a major impact on the future of the Bay Area

With any group that studies and recommends, there is always a danger that its reports will be filed and forgotten. That could happen here too, but there are many reasons why it's unlikely:

- 1) The Commission's Chair, UC Berkeley Chancellor I. Michael Heyman, is one of the most respected people in the Bay Area. The balance of the Commission members are of like stature. Their experience, knowledge of the issues, and widespread credibility will ensure that the Commission's work receives thorough public attention.
- 2) The Commission will have members from all parts of the Bay Area, thus promoting support throughout the region.
- 3) The Commission will, unique in the history of regional efforts, specifically recognize the changing leadership makeup of the region. The Commission enlists the support of emerging leaders in ethnic groups and among women and from remote geographic areas that have not always been a significant part of the debate over land use, transportation, housing and other governmental issues in the Bay Area.
- 4) The Commission will do its work openly and publicly, so that increasing numbers of Bay Area residents will be aware of, and able to take part in, its work.
- 5) The Commission, having a prominent educator as its Chair, will never lose sight of the impact of public education on regional issues.
- 6) The Commission, once appointed, will be totally independent.
- 7) The Commission will recommend specific, clear steps to achieve its vision for the Bay Area 30 years from now.
- 8) Finally, and of great importance, the Commission will begin its work at a time of growing public frustration over housing shortages, unmet transportation needs, and the seeming inability of the region to cope adequately with growth and development pressures. Thus the Commission will begin its work with the potential support and encouragement of a great number of Bay Area residents.

How did the Commission come about?

The Commission was originated by two groups, working without knowledge of each other, to spur efforts toward more effective regional decision-making. After having considered a number of alternatives, each group concluded independently that the most promising next step would be formation of a blue-ribbon citizen commission to analyze current trends in the Bay Area, propose a vision for the future Bay Area, and make specific recommendations to achieve that vision.

The first group was initiated by the current Chair of the Metropolitan Transportation Commission, Supervisor Rod Diridon of Santa Clara County. He was joined by the Chair of the Association of Bay Area Governments, Mayor Warren Hopkins of Rohnert Park, and by successive Chairs of the Bay Area Air Quality Management District, Supervisor Susanne Wilson of Santa Clara County and Councilmember Shirley Campbell of Hayward. In addition, the BAY VISION 2020 Conveners for the Commission include the Chairs of the nine County Boards of Supervisors; the Mayors of Oakland, San Francisco, and San Jose; the Chairs of the region's eight county Mayors' Committees and the President of the League of California Cities.

Simultaneously, a group of leaders of business and environmental groups were meeting under the auspices of the Regional Issues Forum, which is sponsored jointly by the Bay Area Council, lead by President Angelo Siracusa and the Greenbelt Alliance, led by President Bob Mang.

As the two groups became aware of their joint interest in establishing a citizen commission, they developed an agreement by which they have worked together to select and recruit members of the Commission.

This work has been managed by a steering committee that consists of three members from each group. The local government conveners appointed MTC Chair Diridon, ABAG Chair Hopkins, and Air Quality District Chair Campbell. The Regional Issues Forum designated Angelo Siracusa, President of the Bay Area Council; Larry Orman, Executive Director of the Greenbelt Alliance; and Martin Paley, consultant and former foundation executive.

The steering committee is assisted by Joseph E. Bodovitz and Tish Sprague of the California Environmental Trust, a nonprofit California organization that works to help people find consensus on issues of growth management in the state.

Will the Commission duplicate the work of other organizations?

No. The Commission will build on the experience of similar citizen efforts in other places, i. e. L. A. 2000 (a citizen commission appointed by Mayor Tom Bradley of Los Angeles), King County 2000 in the Seattle area, and comparable independent studies of growth and development issues elsewhere.

The Commission will compliment the work of the newly-created Bay Area Economic Forum, but the two organizations have very different purposes. The Forum was established by the Bay Area Council and the Association of Bay Area Governments. It is intended to serve as the voice of business, government, academia, and civic interests on issues affecting the Bay Area economy. It is, in effect, a regional economic development organization. The Forum will not be directly involved in land planning issues or in issues regarding governmental organization in the Bay Area. Moreover, the Forum is intended to be a permanent organization, while the Commission will disband after completing its work.

What role will other organizations play?

The BAY VISION 2020 Commission will welcome broad interest in its work. It will benefit from having other organizations and individuals critically review its proposals. The three sponsoring groups will maintain a strong interest in the Commission's work, and others are encouraged to do this as well.

Work plan

The Commission will, of course, adopt its own work plan. It will almost certainly contain the following components in some form:

- 1) Evaluation of present trends in Bay Area:
 - a. Projected population growth,
 - b. Projected regional economy,
 - c. Projected consequences of regional growth on air and water quality, land use, the future of agriculture in the Bay Area, housing, and transportation,
 - d. Analysis of changing regional demographics (e. g. emerging non-Anglo majority, increase in elderly), and
 - e. Analysis of regional vs. local issues -- (which issues have significant impacts on all or most of the 9-county Bay Area and, to some extent, areas in adjacent counties?)

- 2) Commission outline of vision for the Bay Area in the year 2020. As the Commission evaluates the long-term vision for the region the following will be expressed:
 - a. Analysis of present trends and possible alternatives.
 - b. If present trends are found to lead to an optimal (or at least acceptable) vision, are public or private actions needed to insure their continuation?
 - c. If present trends are not acceptable, what alternative vision would be better?

- 3) If an alternative to the continuation of present trends is selected, what public and private actions are necessary to achieve this vision?
 - a. Analysis of and Commission recommendations on such possible actions as:
 - (1) Regional revenue-sharing,
 - (2) New ways of encouraging private investment to achieve the optimal regional vision,
 - (3) Regional realignment of private sector and governmental decision-making mechanisms on matters of clear regional interest, and

- (4) Regional support for State legislation in such areas as:
- (a) changes in state planning law, perhaps with the State setting broad state policies for growth and development, as has been done in Oregon and Florida; and
 - (b) changes in economic incentives and fiscal policy to stimulate new solutions to land use/housing/transportation problems.

How big will the budget be?

The Commission's proposed budget for 1990 will be \$625,000. The Commission's goal is to receive approximately one-third of its budget from each of the sponsoring groups: government, business and industry, and the nonprofit sector. The local government share has already been provided by a \$212,000 grant from Metropolitan Transportation Commission.

A proposed budget is attached.

The California Environmental Trust, incorporated as a nonprofit, 501 (c) (3) foundation in California, is the repository for funds for the Commission's work.

Conclusion

No one who lives in the Bay Area (or in southern California) can believe that California, or either of its major regions, is adequately managing the state's unprecedented population growth. These growth pressures show no sign of abating. How we manage this growth will largely determine the future of the Golden State. It is hard to imagine a more important enterprise to enlist the best talent -- and financial support -- of the Bay Area.

###

**ROSTERS
for the
BAY VISION 2020 PROCESS**

BAY VISION 2020 CONVENORS

(THE BAY VISION 2020 CONVENORS INCLUDE THE NOMINATING COMMITTEE
PLUS THE ADDITIONAL CONVENOR DELEGATES LISTED BELOW)

Convenor Nominating Committee Members

Convenor's Nominating Committee Chair

Supervisor Rod Diridon, Chair
Metropolitan Transportation Commission
(Representing MTC on the
Nominating Committee and as a
Convenor)
Chair, Santa Clara County
Board of Supervisors
70 West Hedding Street
San Jose, California 95110
(408)299-3924

Councilmember Shirley Campbell, Chair
Bay Area Air Quality Management District
City of Hayward
(Representing BAAQMD on the Nominating
Committee and as a Convenor)
24639 Surrey Way
Hayward, California 94544
(415)783-7330

Councilmember Kathleen Foote, Delegate
Marin County Mayors' Committee
City of Mill Valley
(Representing the Cities of the Bay
Region on the Nominating Committee
and Representing the Cities of
Marin County as a Convenor)
190 Manor Drive
Mill Valley, California 94941
(415)557-3054 FAX (415)557-2200

Supervisor Mary Griffin, Chair
San Mateo County Board of Supervisors
(Representing the Counties of the Bay Region
on the Nominating Committee and Representing
San Mateo County as a Convenor)
County Government Center
Redwood City, California 94063
(415)363-4571

Warren Hopkins, President
Association of Bay Area Governments
(Representing ABAG on the
Nominating Committee and as a
Convenor)
7552 Bonita Avenue
Rohnert Park, California 94928
(707)795-4111

Mayor Lionel Wilson
City of Oakland
(Representing the Three Major City Mayors of
the Bay Region on the Nominating Committee
and Representing Oakland as a Convenor)
One City Hall Plaza
Oakland, California 94612
(415)273-3141
(alt: Councilmember Leo Bazile)

Convenor Members

Mayor Art Agnos
City of San Francisco
(Representing San Francisco)
City Hall, Room 200
San Francisco, California 94102
(415)554-6141
(alt: Gail Goldman)

Councilmember Jane Baker, Past President
The League of California Cities
(Representing the League of California Cities)
City Hall
330 W. 20th Avenue
San Mateo, California 94403
(415) 377-3424 (415)345-2128

Supervisor Harry Britt, President
San Francisco Board of Supervisors
(Representing the San Francisco Board of Supervisors)
City Hall, Room 235
San Francisco, California 94102
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Supervisor Ed Campbell
Alameda County Board of Supervisors
(Representing Alameda County)
1221 Oak Street, Room 536
Oakland, California 94612
(415)272-6691

Mayor William Carroll, Delegate
Solano County Mayors' Committee
(Representing the Cities of Solano County)
City of Vacaville
359 Merchant Street
Vacaville, California 95688
(707)448-2361

Mayor Roberta Hughan, Chair
Santa Clara County Mayors' Council
(Representing the Cities of Santa Clara County)
City of Gilroy
7351 Rosanna
Gilroy, California 95020
(408)842-3191

Convenor Members (con't.)

Councilmember Riho Martinson, Delegate
San Mateo County Mayors' Committee
(Representing the Cities of San Mateo County)
City of Foster City
1130 Halsey Blvd.
Foster City, California 94404
(415)349-0118

Mayor Tom McEnery
City of San Jose
(Representing San Jose)
801 North First Street
San Jose, California 95110
(408)277-4237
(alt: Gary Schoennauer)

Mayor Ken Mercer, Chair
Alameda County Mayors' Conference
(Representing the Cities of Alameda County)
City of Pleasanton
P. O. Box 520
Pleasanton, California 94566
(415)484-8001

Supervisor Janet Nicholas, Chair
Sonoma County Board of Supervisors
(Representing Sonoma County)
575 Administration Drive
Santa Rosa, California 95403
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Supervisor Don Pippo, Chair
Solano County Board of Supervisors
(Representing Solano County)
County Courthouse
Fairfield, California 94533
(707)448-5782

Mayor Ed Solomon, Chair
Napa County Mayors' Conference
(Representing the Cities of Napa County)
Napa City Hall
955 School Street
Napa, California 94559
(707)257-9513

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Convenor Members (con't.)

Supervisor Robert Stockwell, Chair
Marin County Board of Supervisors
(Representing Marin County)
Civic Center, Room 315
San Rafael, California 94903
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Mayor Roy Swearingen, Chair
Contra Costa County Mayors' Committee
(Representing the Cities of Contra Costa County)
City of Pinole
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Councilmember Laurance Tencer, Delegate
Sonoma County Mayors' Council
(Representing the Cities of Sonoma County)
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Petaluma, California 94952
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Supervisor Tom Torlakson, Chair
Contra Costa County Board of Supervisors
(Representing Contra Costa County)
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(alt: Supervisor Tom Powers)

Supervisor Robert White, Chair
Napa County Board of Supervisors
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Supervisor Susanne Wilson, Vice-Chair
Santa Clara County Board of Supervisors
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San Jose, California 95110
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Steering Committee for Bay Vision 2020
(A JOINT COMMITTEE OF BAY VISION 2020 CONVENORS
AND THE REGIONAL ISSUES FORUM)

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California Environmental Trust
Hearst Building
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Councilmember Shirley Campbell, Chair
Bay Area Air Quality Management District
(see BV 2020 Nominating Committee)
(alt: Dr. Milton Feldstein, Executive Director, BAAQMD)

Supervisor Rod Diridon, Chair
Metropolitan Transportation Commission
(see BV 2020 Nominating Committee)
(alt: Larry Dahms, Executive Director, MTC)

Mayor Warren Hopkins, President
Association of Bay Area Governments
(see BV 2020 Nominating Committee)
(alt: Revan Tranter, Executive Director, ABAG)

Larry Orman, Executive Director
Greenbelt Alliance
(see RIF Roster)

Marvin Paley, Executive Director
The Koret Foundation
(see RIF Roster)

Angelo Siracusa, President
Bay Area Council
(see RIF Roster)

Regional Issues Forum (con't.)

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Revised 10/26/89

**PROCESS FOR ESTABLISHING
REGIONAL BLUE RIBBON COMMISSION**

Adopted by BV 2020/RIF Steering Committee
May 31, 1989

PURPOSE OF COLLABORATION

The Bay Area is both ready for and in need of a process for reaching agreements on what must be done to improve decisionmaking in the region, in order to resolve critical problems of housing, open space, transportation and economic development. These problems are the collective responsibility of all of us who live in the region and have not arisen due to the action or inaction of any one interest. The next step needed to address these issues is the creation of an independent, civic commission composed of leaders from the region as a whole, in order to consider and adopt a course of broadly supported actions.

To create such a commission, Bay Vision 2020 (BV) and the Regional Issues Forum (RIF) have created a partnership. Composed of local elected officials from all parts of the Bay Area, BV has built a bridge to the interests of the region's cities and counties. The RIF is representative of the business, environmental and other public interest sectors, including news media, university and some governmental interests, and has engaged a large group of opinion leaders in these sectors to support the creation of a civic commission.

The full range of interests represented by these two organizations is vital to the creation of a commission that can frame an action agenda with a strong possibility of success. Alone, any one interest will only provoke divisive reaction; together, all of these sectors can create acceptance of and authority for bold recommendations for needed changes.

The relationship among the partners of this effort must be a collaborative one, with full sharing of information and ideas between the groups, and a commitment to establish a commission with the capabilities and support that ensure its success.

As in any partnership, a clear statement is required of the principles and procedures to guide the actions of each party. The following are the agreements that each group will use in developing and launching the commission.

CHAIRPERSON

The chairperson for the commission will be a person of stature, with the ability and interest to lead the process of recommending courses of action for the future of the Bay Area. The chairperson will be appointed only after agreement between BV and the RIF on the person to be asked.

COMMISSION APPOINTMENTGuidelines

The commissioners will be broadly representative of the people of the Bay Area. There will be at least one commissioner from each of the counties of the region. Every effort will be made to create a manageable commission of approximately 30 members. The final number of commissioners will be set by the steering committee.

No currently serving elected officials will be appointed to the commission.

No individual will be appointed to the commission by virtue of his/her office.

For particular characteristics to be sought from candidates see attachment.

Selection and Appointment Process

STEERING COMMITTEE: The BV/RIF steering committee will identify general qualifications for commission members and will recommend a means of achieving balance among the interests and perspectives to be represented. The steering committee will identify a large list of candidates to be evaluated (approximately three times the commission size), and will prepare appropriate information on these candidates. The steering committee will endeavor to present its recommendations by late June.

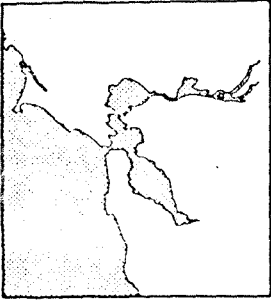
RIF: From the steering committee list, the RIF will recommend a pool of commission candidates approximately twice the number of commissioners (if the number of candidates is less than 55, the steering committee shall review the list and may request RIF to submit additional names). This group will be appropriately diverse and balanced among the qualifications previously agreed to by both groups (see existing statement). RIF will make its recommendations within four weeks after it receives the steering committee's list, and will be available to consult with BV regarding the reasoning for its recommendations.

commission will be to carry out the charge of the commission as defined by its sponsors and refined by the commission. No conditions can be placed on any funds that would limit the ability of the commission to respond fully to its charge.

ONGOING REVISIONS

The nature of this process for establishing the commission is such that there will continue to be unforeseen issues. BV and RIF agree to identify and resolve these issues cooperatively through the steering committee, in order to maintain the partnership that is essential to this effort.

#



BAY VISION 2020

June 21, 1989

CONVENERS

Mayors of:

City of Oakland

City of San Francisco

City of San Jose

Chairs of:

Association of Bay Area

Governments

Bay Area Air Quality

Management District

California League

of Cities

Metropolitan Transportation

Commission

Chairs of:

Board of Supervisors and

Council of Mayors of:

County of Alameda

County of Contra Costa

County of Marin

County of Napa

County of San Francisco

County of San Mateo

County of Santa Clara

County of Solano

County of Sonoma

Dear BAY VISION 2020 CONVENER:

BAY VISION 2020 has taken a great leap forward! On June 9, 1989, the BV 2020 Conveners unanimously approved the final agreement with the Regional Issues Forum. The agreement (enclosed with your June 9th meeting packet) details the procedures for nominating and selecting the BV 2020 Commission members. The BV 2020 Conveners have selected the three Regional Agency Chairs, Mayor Lionel Wilson, Supervisor Mary Griffin and Mayor Kathleen Foote as the six Nominating Committee members. We must now quickly take the next step.

All Conveners were previously requested to submit candidates' names for the Commission. Most of you have responded; however, we haven't yet heard from everyone. Attached is a copy of the application form, also included in your June 9th packet. If you have not already done so, please complete and return the Commission application by Friday, June 30, 1989, to guarantee full consideration.

Please call Joe Bodovitz, our consultant, (415/543-1855) or me directly (408/299-3924) if you have any questions.

Very Sincerely,

ROD DIRIDON,
MTC Chairman
Chair, BAY VISION 2020
Nominating Committee

RD:TW:jlb
5675p

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BAY VISION 2020 BLUE RIBBON STUDY COMMISSION
NOMINATIONS SHEET

Please complete this sheet for each BV 2020 Commission candidate you wish to nominate. Suggested criteria for selecting commission members is attached for your consideration.

NAME:

ADDRESS:

PHONE NUMBER:

OCCUPATION:

QUALIFICATIONS: Please provide a brief description of the candidate's qualifications for serving on the BV 2020 Commission. Feel free to attach a resume or any other supporting information. For information contact Joe Bodovitz, California Environmental Trust, Hearst Bldg., Room 612, 5 Third Street, San Francisco, CA 94103 at (415/543-1855). Provide as much background information as you feel would be helpful in evaluating your nominee.

SUGGESTED CRITERIA FOR SELECTING BAY VISION 2020 COMMISSION MEMBERS

Purpose of the Commission

The BAY VISION 2020 Commission will provide an optimum description of the region for the year 2020 and present a blue print for public and private sector action during the 1990's that will yield the year 2020 vision. The process will include evaluating regional concerns of land use, transportation, economic development and environmental quality and considering these problems within the broad physical, social, and economic fabric of the Bay Area. The Commission will recommend an action plan for resolving these issues, to involve contributions from both the public and private sector.

QUALIFICATIONS FOR INDIVIDUALS

- o Willing to assume principal responsibility for the work of the Commission
- o Ability to work cooperatively with others in the group.
- o Demonstrated leadership in one or more proposed areas of evaluation
- o Stature within the public and/or private sector
- o Broad knowledge of the Bay Area and the issues facing the region
- o Commitment to attend meetings (willing to meet at least monthly - may involve approximately 18 meetings over a one year period)
- o Ability to look ahead
- o Receptivity to other/opposing points of view, and willingness to consider all options to solving a problem

QUALIFICATIONS FOR THE BV 2020 COMMISSION

- o Balanced representation by geographic area, gender, ethnic groups, etc.
- o Representative of business, labor, environmental, civic, etc.

TESTIMONY OF RIVERSIDE COUNTY
PRESENTED BY SUPERVISOR KAY CENICEROS
BEFORE THE
SENATE AND ASSEMBLY LOCAL GOVERNMENT COMMITTEE

Senator Marian Bergeson, Chairman
Assemblyman Dominic L. Cortese, Chairman

November 17, 1989

Riverside County appreciates the opportunity to share our thoughts on SB 968 and AB 2205 and the concepts that underlie these efforts. I thank you for the vision that you reflect in your address of the issues of revenue sharing among jurisdictions and of the concern of the fiscalization of land use.

It is clear that all levels of government are at a point of reassessment of the nature of governance in California. I have recently completed the chairing of a study sponsored by the County Supervisor's Association of California and carried out by the Commission on County Government. Interjurisdictional sharing of revenues is among its recommendations. A very positive effort between the League of California Cities and CSAC to explore these issues is also ongoing.

What we are all realizing is that locally generated revenues are over committed in our post proposition¹³ world. For counties, this is particularly true because of the additional human and environmental services and justice programs we carry out for residents, whether citizens of cities or not. With increasing local matches for many of these programs, it is not clear that old methods of apportioning revenues are appropriate today.

Cities and counties have responded to the coupling of increasing demands for services, costly new regulations and revenue constraints in an ad hoc and competitive manner. Basic truisms of land use planning decisions have been contradicted by efforts to find fiscal solutions. Examples abound in our jurisdiction and others.

The changes in current law that SB 968 and AB 2205 provide assist the solution to this dilemma. I would recommend that resolutions by affected jurisdictions provide the mechanism for tax sharing. Locally derived criteria should be developed, perhaps in a master resolution, to provide a "rules of the game" foundation for negotiation. If not effective, the State should consider incorporating the criteria in statute.

I would support the approach of SB 968 broadening the application of revenue sharing to annexations. In our County, denial of annexations is a rarity without protest of property owners. If findings of fiscal detriment are fairly presented, the ability to mitigate revenue losses by negotiation between county and city, and between cities in the case of boundary adjustments, should return the focus of annexation decisions back to service ability, good land use planning, and self determination. A data base developed for that purpose, such as in Orange County, could provide a mechanism to assess fiscal impacts and a test of the "rules of the game." Agreements for sharing and or fiscal detriment should be a specified finding for annexations and incorporations. Outside of annexations, fiscal detriment should be a mandatory part of the environmental review process of any jurisdiction. I would hope this would foster voluntary mitigations.

Even with such measures as are being explored today, the breadth of demands on counties warrants an additional revenue source for counties. The State sponsored programs we deliver will demand more resources than local funds can generate.

I thank you for your attention.

KC:vc

County Supervisors⁷⁶³ Association of California

Testimony of Daniel J. Wall
Representing the County Supervisors Association of California
Before Senate and Assembly Local Government Committees

November 17, 1989

Madam Chairman and Mr. Chairman and members of the Local Government Committees, my name is Dan Wall and I represent the County Supervisors Association of California. Thank you very much for allowing me to participate today. I think the fact that you are having this hearing is very important for counties.

One thing I would like to do very briefly is suggest that your two committees ought to focus first on the subject of this hearing: the legislation before you. Much has been said already by the cities about how the subject of this hearing is really annexation. I would suggest to you that the bills before you are not directly about annexation, and I would like to first deal with the direct issues.

The constitutional amendment allowing sales tax sharing without a vote of the people is very important. The County Supervisors Association believes that this is entirely appropriate. Primarily because sales taxes can legally be shared under current law, but it cannot be done in a very efficient or reasonable fashion. Options exist, for example, for a county and a city to share sales tax by means of jointly changing their Bradley-Burns sales tax rates. Under current law the county and the city have to adopt a uniform Bradley Burns rate. Basically, they can adjust those rates ever so slightly so that there is a shift of revenue from one to the other. This method is very imprecise in terms of coming up with an actual amount. It is much easier to simply transfer a percentage of a city's annual revenue or a fixed dollar amount. So, the constitutional amendment is merely a streamlining of current law, and it should be supported strongly.

With regard to the both property tax measures, there doesn't seem to be any problem for either the cities or counties on that issue. It's appropriate to streamline property tax sharing and make it more rational. The problems seem to be with regard to the legislation which would allow sales tax sharing. As I have already said, counties and cities can do that under current law. First of all, this suggests that perhaps streamlining sales tax sharing is not such a big problem as the cities believe it to be.

You have heard about the fiscal situation facing counties, and that picture continues to be a bleak one. But, counties do not want to try to balance their budgets on the backs of cities as some have suggested. Counties do want to have an appropriate balance of power regarding those fiscal issues that intertwine counties and cities. The sharing of sales tax that was contained in your legislation is one of those intersection points where the revenues to be shared affect both jurisdictions. The current status of county finance is germane, however, because you can't simply have incorporation after incorporation, annexation after annexation, or redevelopment agency after redevelopment agency formed within a county because each one of those actions diminishes the total revenue available to

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Testimony of Daniel J. Wall
Page two

the county. Yet, each one of those actions does not significantly alter the service responsibility of the county. That, I think, is the key for counties. It is the expenditure side, as Mr. Harrington indicated, which creates the burden. What we want to make sure of is that the revenue side for counties does not get to be a burden itself. Everyone of those circumstances that I mentioned to you earlier-- redevelopment, annexation and incorporation -- have a potential for drawing significant amounts of revenue away from a county without changing county service obligations. These service obligations are imposed upon counties by the Legislature and the Governor by virtue of the fact that counties are an arm of state government. It is this dual role of counties as a municipal government entity and, at the same time, as the representative agent of the state that creates the circumstance where counties and cities are in competition over the same local dollar.

Earlier I referenced the objective of maintaining the balance of power between counties and cities. I think that this concept is the key to understanding the issue of permissive sales tax sharing. "Permissive" means that nobody is compelled to share. This permissive ability to share sales tax is important if you wish to address the issue of the fiscalization of land use. A county that is responsible in terms of land use planning, that is, a county which actively promotes development (commercial and other kinds of intensive development) within cities or within city spheres of influence, suffers a penalty under current law because its economic base essentially remains stagnant. And that's what happens to a county if they do the job the right way. Growth promoted in the unincorporated area is generally inconsistent with sound land use planning. If a county promotes growth in the unincorporated area to stimulate its economic base, then it runs the risk of future annexation, and it runs the risk of having a land use policy that is extremely haphazard. Essentially the economics of these decisions are overshadowing smart land use policies we ought to be following. Consequently, counties and cities ought to have the where-with-all to sit down at a table and hammer things like sales tax sharing out. A state imposed solution which excludes annexations from permissive sales tax sharing distorts good decision making at the local level, and in fact perpetuates the problem which you have come to know as fiscalization of land use.

Permissive sales tax sharing is not unfair. Counties have an ongoing service responsibility which is not altered significantly by an annexation because the city only assumes responsibility for services like police and fire protection. The county retains the courts, the county retains the welfare program, the county retains the health programs, and the county retains the jail programs. These are substantial expenditure obligations, yet the city immediately receives the sales tax from the annexed area. The cities also have potential to impose business license taxes, and utility users taxes in the annexed area, and the best that a county can do is to hold on to its property tax. I think we need to expand the scope of negotiations as the bills before these committees suggest. It is interesting to note that even the data cited by the cities suggest the problems do not occur with the annexation of agricultural or residential land, but rather with commercial areas. The data suggest that about 20% of the total annexations were problematic. This is roughly the same percentage of annexations which affected commercial areas.

In order not to repeat anything said earlier I would like to thank you for the opportunity to speak, and I will be happy to answer any questions.



Karen Humphrey
Mayor

November 17, 1989

Senate and Assembly Committee
on Local Government
Senator Marian Bergeson, Chairman
Assemblyman Dominic L. Cortese, Chairman
State Capitol
Sacramento, CA 94248

RE: REPORT TO THE ASSEMBLY AND SENATE COMMITTEE FOR LOCAL
GOVERNMENT

Dear Committee Members:

I am speaking to you as the Mayor of the City of Fresno and, informally, on behalf of the fifteen Cities in Fresno County. Among us, we include 74 percent of the County population of over 620,000. I very much appreciate the opportunity to present the information which follows, and thank the committees for taking a serious look at these critical issues.

I. BACKGROUND AND CONTEXT

All of these cities in Fresno County are dealing to one degree or another with significant environmental issues of air and water quality and with continuing rapid population growth. The Fresno-Clovis Metropolitan Area now houses over 435,000 people. At \$90,000, our average housing cost is considerably below average costs in other urban areas of California. Median family income also falls below the state average (\$30,600 as compared to statewide \$38,500). Our elected officials are keenly aware of the need for housing and of the importance of housing to the local economy and quality of life.

We support orderly growth and the role of the Local Agency Formation Commission (LAFCO) in the determination of logical boundaries to facilitate that growth. We believe strongly that urban growth belongs in cities which can be accountable for community service needs, rather than in areas served by

several limited-purpose agencies. This is, as other presenters have indicated, the best land use planning. Also, the protection of productive agricultural land is tied to limitations on the creation of haphazard and revenue-driven development in areas beyond existing cities.

The City of Fresno's somewhat beleaguered history regarding annexation and urban growth is too easily evident by looking at our map (see attached) of the County islands within the metropolitan area which continue to create service inefficiencies and strains in land use policies.

Nevertheless, Fresno County and its cities have benefited from a history of cooperative land use planning in place since the mid-1970's. Urban growth has been directed toward the cities and LAFCO has worked to rationalize and consolidate service systems that were established before the advent of state legislation creating the LAFCO process. Financial pressures which go well beyond the capacities of local government are now severely threatening the cooperative process and rational land use policy in our county.

All of the cities in Fresno County had master property tax agreements which facilitated the focus of LAFCO determinations on issues of logical boundaries and available services. Fresno's agreement with the County included an approximately even split on property tax (52 percent County, 48 percent City), 1 percent of our sales tax revenues, forgiveness of a Convention Center debt (approximately \$200,000. annually) and all of the City's share of fines and forfeitures revenue (at approximately \$1.8 million in 1988). In exchange, the County provided countywide services to our residents and referred urban development proposals within one half mile of our boundaries to us for annexation.

In August of 1987, the County Board of Supervisors gave the City of Fresno notice of the termination of our Master Agreement. As a result, we have been unable to process annexation projects for two years. Last spring the all other 14 cities were given the same notice, even though some of them (Coalinga, Sanger, Selma) had been in negotiations to meet the County's demands for many months.

We are in a continued stalemate which threatens the existing policy of focusing growth on urban areas and, as a consequence, induces growth in the outlying agricultural areas. Fresno County has already approved the Millerton New Town, twelve miles from Fresno. They could also give favorable consideration to a 700 unit residential project on the Ball Ranch adjacent to the San Joaquin River approximately three miles north of City of Fresno boundaries. These are further examples of what your staff has termed the "fiscalization" of land use.

The impacts of the County's actions vary from city to city. Adverse economic consequences are most immediate for the building industry, with the predictable ripple effect on all related business. Other specific impacts include the following:

1. COALINGA

Coalinga has a land inventory for only 61 residential units with a return-to-custody and a correctional facility slated for development in the area. If annexation and residential development are further delayed, that residential growth will most likely go to Lemoore or Hanford in Kings County, adding the need for increased vehicle miles traveled by those employees.

Coalinga feels a need to diversify its economic dependence on the depletable resources of oil reserves; however, there is no viable industrial land within the City, and sphere of influence revisions have taken 18 months, with annexation still delayed. Two potential firms have been lost during that time.

The retention of Coalinga's hospital was strongly jeopardized with a delay of annexation past the deadline for sale of bonds, with no ability of the local agency to assure the project. As Coalinga is over an hour from metropolitan area hospitals, the importance of that facility needs no elaboration.

2. REEDLEY

The City of Reedley has worked for over three years to attract new motel construction. They now have two developers who have completed all of the City's processing requirements but cannot annex. If the City releases them to develop in the adjacent unincorporated area, they will have to go through the same processes at the County with additional fees, and will still need City sewer and water service.

3. SANGER

Two existing automobile dealerships in the City wish to relocate to land currently outside of the City of Sanger's boundaries. Although the city has been negotiating with the County for a year, Sanger has been unable to meet the County's demands for property and sales tax sharing and redevelopment controls in a manner which will allow the annexation and a sphere revision to move ahead.

4. FRESNO

The City of Fresno has had seventeen annexation projects delayed for over two years, with another ten projects awaiting processing. Although we have an inventory of buildable land, most of that has inflated in land value and is likely to be built for the high end of the housing market. Entry level housing will be most adversely impacted by the continuing moratorium on annexations. Fresno is also faced with the loss of an existing automobile dealership which wishes to move across the street into a county island, and which the county is processing over our strong environmental and land use objections.

Several other small cities have projects of vital economic development consequences which are being jeopardized by the existing conditions. Unfortunately, the conflict is escalating and affecting our ability to trust each other and to work cooperatively on regional issues.

As negotiations began with the County, it was clear that more than property tax sharing was on the table. Also before us were requests to renegotiate sales tax sharing, redevelopment and land use policies. We have now reinstituted the Fresno County Cities' Association and have been negotiating as a combined unit since June. My colleague, Councilman Craig Scharton, has represented Fresno in these negotiations and has worked long and hard to achieve agreement. While there seems to be agreement on three of the four areas of County demands, we have reached a stalemate on the fourth - redevelopment - and there seems to be no immediate possibility of agreement. The conditions being negotiated were as follows:

A. PROPERTY TAX

The County asked for a share equal to what they were receiving prior to the passage of Proposition 13. In Fresno's case, that means a split of 62 percent County, 38 percent City. All 15 cities have agreed to this principle and accepted the new property tax splits.

B. SALES TAX

The cities have agreed to share up to 5 percent of overall sales tax revenues staged over a nine year period. At the end of that period the City of Fresno would be paying 6 percent, given that we already share 1 percent of sales tax revenue. This gain in revenues to the County is estimated to exceed \$20 million over ten years.

C. LAND USE DEVELOPMENT POLICIES

After much discussion, there was general agreement on leaving existing policy in place. Subsequent Board of Supervisors discussion indicate that the Board is considering entering into the urban development business. Board members have not participated in the negotiations as Council representatives have, which has, in our view, complicated the negotiation process and reduced the possibilities for success.

D. REDEVELOPMENT

This is the area where we have not come to agreement. The County has sought 100 percent pass-through of the County's portion of the property tax increment. This, in our estimation, will eliminate successful redevelopment project in most cases. We maintain that existing state law is sufficient to protect the interests of all agencies involved and that the fiscal process gives the County an opportunity to negotiate an appropriate share when there is an actual project to discuss. In fact, our most recent project at Fresno Air Terminal did provide the 100 percent pass-through (although this was a unique project). We cannot commit ourselves in advance to unknowable limitations. Several attempts have been made at devising special standards and procedures to respond to County concerns, but they have been generally unsuccessful.

Overall, the cities in Fresno County are experiencing a strong will on the part of the County to share in growth-related revenues, and we have generally agreed that they should. The County, however, is not satisfied with the offer and continues a position which is artificially controlling growth within the cities in spite of long-established land use policies. We do not feel these actions will help the county's fiscal situation nearly as effectively as the proposed agreement. Meanwhile, our battle over scarce resources is making it harder for us to work cooperatively on other major regional issues such as the San Joaquin River Parkway, water quality and supply, air quality and facilities planning.

The County's posture is indicative of their larger revenue problems and these problems constitute a major limitation to our ability to find mutually acceptable solutions. The socio-economic structure of the metropolitan area presents both the County and the City of Fresno with formidable challenges in

meeting social service and law enforcement costs. Our problems cannot be solved locally, but demand full state funding of mandated programs. Local property and sales taxes cannot cover required costs in an area where property tax values are not escalating as they are in other parts of the state.

Before I go on, I want to affirm my strong support for the Joint Task Force on Revenues and Responsibilities described by LCC President-elect Iola Williams. I serve on that Task Force and was instrumental in its formation. I am reasonably pleased with the proposed agreement we have worked out and very pleased with its acceptance by the League of California Cities Board of Directors. However, I would point out that the CSAC Board has yet to ratify that agreement, and the truce which it seeks it not yet in place. I hope that will happen, but I am concerned it will not.

Therefore, I want to identify some areas of possible legislation that I feel will help the situation of cities. Whether or not they will be forthcoming as specific legislative proposal - and in what form - depends on the future of the Task Force effort. The first is an area on which cities and counties absolutely agree. The remainder are not.

II. REQUESTS OF THE LEGISLATURE

FUNDING FOR MANDATED COUNTY SERVICES

To repeat, the primary reason counties are hammering cities for additional revenue, is that counties do not have adequate funding for mandated State services. Mental health programs, County hospitals, welfare programs, jails, the Court system, all are inadequately funded and must be supported by use of general County revenues at the expense of other local programs. State funding must increase to support these mandated programs at their current cost levels. Unless that occurs, counties, especially counties with relatively low sales and property tax revenues, will continue to demand additional shares of limited sales and property tax revenues from cities at the expense of cities programs.

This funding problem is exacerbated by the disparity in property tax revenues available to counties throughout the State. High property tax counties, such as those in the major metropolitan areas, are more easily able to fund mandated services (the cost of which relatively equal throughout the State), while counties with low property tax revenues must draw upon those substantially lower resources. Fresno County has a high level of unemployment and a high number of families on public assistance, but is low in property tax receipts compared to other metropolitan areas. Of course Fresno County is going to compete with cities for scarce resources.

In order to emphasize the seriousness of this competition, we would point out that the City of Fresno spends all of its sales tax and property tax (\$57 million per year) on police and fire services. When a county demands an additional share of revenues currently devoted to police and fire services, competition definitely escalates.

A LEVEL PLAYING FIELD

Assuming that with or without state funding of mandated programs, there may still be reasons to share revenues, I favor the concept of agreements worked out at the local level. Because of the state of current law, counties have little or not incentive to negotiate such agreements except on their own terms. Cities, on the other hand, have no real method of persuasion. The following ideas could help level the playing field:

A. LAFCO membership

LAFCO membership does not adequately reflect nor represent the population served. The City of Fresno has more than 50 percent of all the population in Fresno County, is six times the size of the next largest city, and has no member on LAFCO. We believe that LAFCO membership ought to include one representative from the largest city in a county if that city has at least a 50 percent greater population than the next largest city.

B. Annexation for certain specified purposes should be made easier.

Fresno's boundaries (as you can see on the map) are an unfortunate hodgepodge of County islands, peninsulas, and strips bearing no rational relationship to efficient service delivery. Both the City of Fresno and Fresno County recognize the inefficiencies inherent in extensive County islands, for which services are provided by the City of Fresno. Fresno County, three fire districts, five water districts, and one police district. Attempts by the City to square off these boundaries and eliminate islands have been successful in only the most limited way. Legislation should be considered to facilitate annexation in order to eliminate islands and square off boundaries.

C. Incentives for agreement on tax sharing.

As I have indicated, there is no incentive for a county to reach agreement on property tax sharing other than on its own terms. The failure to reach agreement can shut down annexation and damage rational land use planning. Perhaps the agency cancelling the agreement could have some share of the current property tax received in the area in question placed into a trust account from which it can not be spent until an agreement is reached. As an alternative to that, annexations could continue to be processed through LAFCO with a statutory requirement that the conditions of a new agreement are effective and applicable to those annexations retroactively. This places a burden on both parties not to be unreasonable.

D. Waiting period after cancellation of property tax agreements.

Currently a county can initiate cancellation of a property tax sharing agreement and ninety (90) days later, that cancellation becomes effective. That is hardly enough time for cities and counties to negotiate massive amendments to sales and property tax agreements. The cities in Fresno County have offered to Fresno County more than \$20 million over a ten year period in an increased share of sales tax. These negotiations are still going on. We would suggest that notice by an agency to cancel the property tax agreement initiates a one year negotiation period during which time the current agreement remains in place.

E. Independence of LAFCO staff

Currently LAFCO staff are County employees funded through County revenues. This system does not provide the level of independence necessary for a body like LAFCO. LAFCO staff should not be dependent on its employment and level of funding by one of the agencies having a deep interest in the land use process controlled by LAFCO. We recommend independent funding for LAFCOs.

SPECIAL DISTRICT LEGISLATION

In the Fresno-Clovis Metropolitan Area, providing police and fire services are two police departments, the Fresno County Sheriff's office, two fire departments, one special police district, and three fire districts. While special districts are probably a necessity, under the law they are discouraged in

metropolitan areas. In practice in Fresno County, this is not the case. When cities propose annexation, special districts, primarily fire districts, object loud and long to reductions in revenues, because they are using property tax revenues from the metropolitan areas to support these same fire services in rural areas. Notwithstanding the fact that upon annexation special districts no longer provide services to the annexed area, they are demanding that they be held harmless from these revenue reductions and counties which are in competition with cities respond favorably to these districts through the LAFCO process, often setting onerous conditions upon the annexation making it economically infeasible by doubling the cost of services to the taxpayer. If we were to push legislation, it would strengthen the efficient provision of services by prohibition of "hold harmless" conditions for special districts upon annexation of territory.

Again, I thank you for inviting me to testify before you, and I urge you to continue working with us to help fashion solutions that work for cities, counties and the State of California.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen", with a horizontal line extending from the end of the name.

Karen Humphrey
Mayor

KH/JKK/meb/882
Attachment (map)



Judy Andreen
Supervisor, District 5
Board of Supervisors

November 30, 1989

Senate and Assembly Committee
on Local Government
Senator Marian Bergeson, Chairman
Assemblyman Dominic L. Cortese, Chairman
State Capitol
Sacramento, CA 94248

Dear Senate and Assembly Committee Members:

RE: FRESNO COUNTY TESTIMONY TO LAND USE AND REVENUE SHARING HEARING
NOVEMBER 17, 1989

On behalf of Fresno County, I want to thank you for the opportunity to appear before your Committee and present testimony. Given the number of witnesses and the need for brevity in our presentation, I would like to provide the attached information for your consideration.

I have also recently received a copy of Fresno Mayor Humphrey's written testimony and feel compelled to comment. Again, I will try to be brief, but the issues are too important for your Committee to not have the benefit of the County's perspective.

Annexations

The City's complaint of "county islands" as evidenced by the map presented at the hearing and the Mayor's characterization of the City boundaries as "an unfortunate hodgepodge of County islands, peninsulas, and strips bearing no relationship to efficient service delivery" overlooks the fact that it is primarily the result of voters in affected areas repeatedly voting against or protesting proposals to not be annexed to the City of Fresno. In many instances, the voters were asked to approve or reject incorporation and determine which fire district, water district, or policing entity provided services. The boundaries are the way they are for one simple reason, the taxpayers and voters knowingly decided. During the past 15 years there have been five annexation

November 30, 1989

Page 2

elections to the City and only one succeeded. On the largest attempt to annex Fig Garden, the City has tried for over 15 years to annex and because of strong public opposition, have declined thus far to even offer a proposal for voter consideration.

The Fresno Mayor's representations concerning the Cities of Reedley and Coalinga are incorrect. In Reedley, the City and County are in complete agreement that the desired development should not be delayed and that immediately upon completion of the tax sharing agreements, the area will be annexed. Likewise, in Coalinga the land has already been annexed and the site specific conditions related to the hospital bond issue is moot.

For the City to suggest that State legislation should eliminate islands and square off boundaries is an obvious attempt to second guess the local voters and disenfranchise those that have worked to prevent annexations and disruptions to service delivery. It is clearly the will of the people that is frustrating the City of Fresno's actions to annex, and not the lack of a property tax exchange agreement.

Furthermore, after two years with no property tax agreement the City of Fresno still has over 20,000 acres of developable vacant land within its boundaries. This land was annexed and "banked" over the years with the effect of generating property taxes for the City of Fresno with very minimal service costs. One positive effect of the County's action to terminate annexations has been the gradual use of the vacant lands to improve densities and infill in the urban area. All of which improves the efficient delivery of municipal services and more adequately aligns tax revenues and costs.

The reason the City of Fresno still has 20,000 acres of vacant land is simple. Between 1980 and 1985, almost 18,000 acres were annexed by the City of Fresno. Over 900 acres were high value commercial, including prime shopping centers valued at \$184 million, and 1,700 acres of industrial land valued at \$172 million. Data clearly shows the City of Fresno succumbed to the "fiscalization of land use" and annexed high tax yield property.

The Mayor's suggestion that annexations should be allowed to proceed in the absence of a tax exchange agreement with funds being placed in escrow, is ill advised. Important land use and service delivery issues are inseparable from financing the costs of government. Unfortunately, the City fails to adequately consider the fiscal implications of many of its decisions, particularly as it relates to the costs of providing County services to City residents. We strongly disagree that the County of Fresno is being "unreasonable" and believe it is extremely presumptuous of the Mayor to suggest that the Fresno County Board of Supervisors is less interested or sensitive to the electorate than the City Council.

November 30, 1989
Page 3

The Mayor's assertion that the County's actions jeopardize the Board's stated policy of continuing to foster development in incorporated areas, is incorrect. The Board of Supervisors still wants an agreement that will allow cities to do development. However, in order to allow businesses to expand, the County will accommodate their needs until such time as agreement is reached on all fiscally related issues. It would be extremely misleading to represent that the agreement on three of four points is equitable when the fiscal detriment suffered through the unresolved issue negates gains in the other areas. There is no deal until a complete fiscal balance is achieved among all sharing agreements. This has consistently been the County's policy, and the City knows it.

Redevelopment

The Mayor is correct in stating that the County has sought 100% pass-through on redevelopment agreements, however, the County is amenable to contributing a mutually-agreed amount of increment when it is the only means available to address bona fide blight. Too frequently, however, the cities have attempted projects that are inconsistent with State law and designed specifically for economic development. The City's contention "that existing State law is sufficient to protect the interests of all agencies involved and that the fiscal process gives the County an opportunity to negotiate an appropriate share..." suggests a total lack of understanding of State law. Current State law allows cities to unilaterally adopt redevelopment ordinances that confiscate the county's future tax increment. There exists in State law only a process to identify and discuss financial detriment to affected agencies. There is absolutely no requirement that the city/agency negotiate or take anything less than 98% of all future tax increment. The counties' and other agencies' only recourse is to link redevelopment to other vital tax sharing agreements and/or indulge in expensive litigation. State Redevelopment Law is simply too biased in favor of redevelopment agencies.

In fact, since 1980, the County has lost more than \$6.5 million to redevelopment agencies. The annual loss has tripled from \$515,000 in 1980-81, to \$1.44 million in 1986-87. Anticipated losses over the term of existing redevelopment projects is \$20-25 million.

It is also extremely self-serving, and misleading, for the City to take credit for providing 100% pass-through on the Fresno Air Terminal project. The County invested many months of staff time at considerable expense to force the City to evaluate and revise a project that ranks high among the most blatant cases of redevelopment rip off in the State's history! In fact, the Fresno County Grand Jury is currently investigating the City's handling of the project.

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LAFCo

Current State law provides that city representatives to LAFCo be selected through the City's Mayor Selection Committee. Until State law changed in 1984, a city representative could not vote on proposals affecting their city. This would have disqualified a Fresno City representative from voting approximately 75% of the time. With that change, the other cities have an option, if they choose to use it, to select a City of Fresno member. Evidently, the 14 other mayors believe they are better represented on LAFCo by someone other than elected officials from the City of Fresno.

The Mayor's contention that LAFCo staff is funded through the County and is not independent, is incorrect. The State requires that LAFCo financing be included in the County's budget for ministerial and accounting purposes only. LAFCo staffing consists of an Executive Director and Administrative Secretary. The budget is \$124,369 for 1989-90, with more than half of that amount financed through developer fees. The Mayor's unsubstantiated allegation that "this system does not provide the level of independence necessary" has never been raised publicly prior to the letter. We too, however, would support 100% State funding of LAFCo.

Obviously, we do concur completely with the Mayor's concern about inadequate State funding of mandated county programs. She is correct that unless the overall fiscal partnership between the State and counties improve, counties will continue to "hammer" cities and the State for additional mandate relief or revenues.

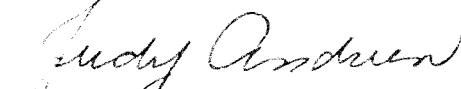
As to the Mayor's final point that special districts should be limited in providing municipal services in the urban area, we offer the following. Frequently, the voters evidently are more satisfied with services provided by special districts than with City of Fresno services. For example, in the unincorporated Fig Garden area, residents assess a special levy to allow the County Sheriff to provide municipal level of law enforcement through a special police protection district. This approval allows them to deal with an elected Sheriff rather than an appointed Chief of Police.

We also disagree with the statement that special districts use property tax revenues from the metropolitan area to support services in the rural areas. In fact, our data indicates the opposite to be the case. The Mayor fails to realize that special districts' service costs do not decrease directly proportional to literal acreage reduced through annexation. For example, a fire district does not close the fire station and sell trucks when 4% of the geography of the area is detached. Therefore, revenues agreements that hold harmless or protect an adequate base of district revenues are totally appropriate.

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Again, I wish to thank the Committee for the opportunity to testify and appreciate the thoroughness of your study. We look forward to continuing to work with your committees during the legislative session.

Sincerely yours,


JUDY ANDREEN, SUPERVISOR
DISTRICT 5

JA:cf

Attachment

cc: Fresno County Board of Supervisors
Daniel R. Fitzpatrick, Fresno County Administrative officer
David L. Crow, Director of Policy Development

8495B

Presentation by Supervisors Judy Andreen
to Senate/Assembly Interim Hearing on
Land Use and Local Revenue Sharing:
Playing the Zero-Sum Game
November 17, 1989

I. Brief History of Fresno County's Efforts to Resolve Tax Sharing Crisis

- A. County's fiscal decline began early '80s.
 - 1. Local tax stagnation
 - 2. Cyclically high costs of services at time of redevelopment
 - 3. State & Federal abdication of fiscal support for State/Federal mandates, health
- B. Former sharing agreements post Proposition 13 era
- C. Preserved agricultural lands
 - 1. Fee adjustments on regular basis Master Fee
- D. Fiscal Crisis prompted thorough review of all options to sustain adequate services
 - 1. Department review, consolidations, workforce reduction
 - 2. Management Audits - 20 departments studied
 - 3. Fee adjustments on regular basis - Master Fee
- E. Leaned on State Legislature
 - 1. State bonds for jail construction
 - 2. Trial court funding
 - 3. Revisions to redevelopment law
 - 4. Next year public hospital bond measure - AB 1882 (Bronzan)
 - 5. Lastly, review of City/County Tax Sharing agreements

II. Fresno County's Actions to Resolve inequitable Tax Sharing Agreements

Concerns questions study analysis conclusion: November '86 initial questions and study, June 1, 1987, process begun.

Over 15 specific reports presented to the Board of Supervisors with over 8 feet of research and data compiled.

At each step along the way, the cities were invited to critique the methodologies and conclusions.

The overall integrity of the data remains unchallenged and credible.

III. Summary of Reports

- A. June 1, 1987, Board of Supervisors asked if County's land use policies had contributed to County's fiscal crisis?

Answer:

1. Sales tax agreements resulted in annual loss of \$825,000 since 1977.
2. Redevelopment cover annual losses of over \$1 Million since 1980, expected to cost \$20 - 25 million over life of project.
3. Extensive City annexations shifted over \$3 million per year in sales taxes plus \$530,000 per year in property tax.
4. County's land use policies of 1974 "Referral Policies" purpose: Presentation of agricultural lands by encouraging infill of urban areas and by allowing cities to process development proposals with 1/2 mile of City limits.
5. 1976, County General Plan adopted Urban Fringe Area Policies to promote urban unification and preserve agricultural lands. Result - massive annexations.

B. Sales Tax History

1. In January, 1977, all 15 cities voted to terminate sales tax agreement that had been effect since 1961.
2. Late February, 1977, new agreement reached City of Fresno: County's share reduced from 0.9% to 0.1% in return for City takeover of Convention Center bond payments. Small cities keep 100% sales tax.

- a. Result: Fresno County lost average of \$825,000 annually - cumulative loss from 1977-1986 was \$8.2 million.

1970 - 66% of assessed value in County

1987 - 44% of assessed value in unincorporated area

Between 1980 and 1985, almost 18,000 acres were annexed by the City of Fresno (over 900 acres were commercial land valued at \$184 million and 1,700 acres of industrial land valued at \$172 million.

3. In 1977, County received 26% of all sales tax. By 1986, due primarily to City annexations of commercial centers, County share declined to 11%.

Result: From 1980-85, County lost \$3 million. County currently retains \$25.2 million of property taxes collected in cities. However, services provided by the County to City residents have a net County cost of \$57 million. Result is a \$32 million shortfall to be made up from other County revenues derived from unincorporated areas.

Problem: Unincorporated services are cut dramatically to subsidize mandated services provided to City residents.

C. Redevelopment

1. It was initially believed Proposition 13 would eliminate redevelopment activity because of reduced tax increment. However, statewide since 1978, the number of agencies grew by 81% and agency revenues increased by over 650%!
2. Fresno County - Prior to 1978 only 2 agencies. Today - there are 21 redevelopment areas in eleven of Fresno's 15 cities! In 5 cities the project area include the entire City!

Result: Since 1980, the County has lost more than \$6.5 million to redevelopment agencies. Annual loss has tripled from \$515,000 in 1980-81, to \$1.44 million in 1986-87. Anticipated losses over term of existing redevelopment projects is \$20-25 million.

The Board of Supervisors was distressed to learn of the magnitude and implications detailed in these early staff reports.

Perhaps a fact that helped explain the reasons for heavy cuts in unincorporated services and the shift to City residents was best illustrated by:

- Per capita property taxes

In 1970 the County received \$30.62 per capita

In 1987 the County received 61.38 - a 103% increase

During the same period, per capita expenditures grew from \$191 to \$638, a 234% increase.

IV. Actions by Fresno County

- A. July, 1987, Board approved resolution to terminate property tax exchange agreement on October 14, 1987.
- B. December 8, 1987, Board directed staff to negotiate:
 - 1. County get same share of property taxes for all areas currently with the City as received prior to 1978 and retention of its current tax rate for areas annexed in the future.
 - 2. 100% pass-through of County's tax increment on future and amended redevelopments.
 - 3. Sales tax discussions to begin.
- C. No annexations can be processed by LAFCO. Unless a negotiated tax sharing agreement is developed for each proposed annexation.
- D. County's still supports land use policies that preserve agricultural lands and encourage urban unification.
- E. If above agreed to by cities, Fresno County would receive \$728,000 more property taxes and would not lose on future annexation.
- F. 14 negotiating sessions over many months.
- G. Conceptual agreement = \$25 million new revenue in 10 years. \$4 million new revenue in 10th year.

IV. Land Use

- A. The County will continue to direct urban development to existing cities.
- B. County will not create any urban-level centers within 5 miles of Metro area.
- C. County will not approve any discretionary development permits within a city's sphere unless first refined to City for annexation consideration.

D. Annexation standards created

1. Within sphere consistent with Knox-Cortese Act
2. Consistent with General Plans and CEQA
3. Not create islands

E. Fiscal - Substantial Development

County gets share of base and increment from dissolving districts

F. Non-substantial development

County will retain all base tax and share of increment

V. Unresolved Matter - Redevelopment

March 22, 1988, County position: "County be compensated for full amount of any loss of tax increment from any City redevelopment through the City's resources such as sales, property tax, and/or through the provision of needed County facility."

A. City Position

Will consider County's fiscal detriment. If City unable to mitigate, too bad for County. In other words, existing flawed State law that allows cities to unilaterally shift County increment to project!

1. If more than 30 acres or 10% of project is vacant land, City agrees to "pass through" of County increment on vacant land only.

B. Property Tax - Developed Annexation

1. County will receive 62% (vs. 51%) of City of Fresno property tax. Increase \$290,000 to County
2. Undeveloped Annexation. County will retain all base tax and share of increment.

C. Sales Tax

Current

County receives 1% of City of Fresno, 0% other 14 cities.

Proposed

- 5% shift to County over 10 years - 14 cities
- 6% shift City of Fresno over 8 years
- Annexation of unincorporated high sales tax area - County will be "held harmless"

Fiscal

Substantial unknown increase to County

Legislation

Joint City/County effort to improve fiscal condition of Fresno County

8454B

Testimony of William E. Thomson, Jr., Mayor of Pasadena
before the
Joint Hearing of the Senate and Assembly
Local Government Committees
Friday, November 17, 1989
Land Use and Local Revenue Sharing

Thank you for providing the opportunity to offer comments and suggestions on pending state legislation. Before addressing specific legislative proposals involving annexation procedures and the transfer of revenue, I would like to make some observations about the very crux of the problem.

The Role of County Government

In my view, the problems being encountered between and among various levels of government in transferring and sharing revenue are symptomatic of a much larger issue -- the role of County government in this era of increasing regional concerns and issues.

It seems to me that County government should be charged with the provision of regional services and with addressing the issues which fall outside the realm of city government, for example, social services such as mental health and criminal justice facilities which span governmental boundaries and exceed the fiscal ability of virtually any city acting alone. Many counties are still providing municipal-type services such as police and fire and street improvements to urbanized, unincorporated areas. Is this the proper role of County government in this new age which requires regional action on such complex regional problems as transportation, air pollution, and solid waste management?

I raise the question because traditionally we have relied upon property taxes to finance property-related services. Part of the solution may rest with relieving counties of the burden of providing municipal-type services and requiring adjacent cities to provide these services under contract. The property taxes and other land-use related revenue generated by these unincorporated areas would be used to finance these services.

I realize that restructuring local government in the State of California is a larger issue than the one which this Committee is prepared to address today, but it is fundamental to resolving the competition for resources. A policy question which must be addressed is whether cities and counties should compete for the same resources to deliver identical services.

Property Tax Negotiations and Annexations

Now, on to the subject at hand. The City of Pasadena has direct

experience with the negotiation of a property tax resolution for an annexation. After two years of work and planning, the City of Pasadena filed an application to annex a portion of East Colorado Boulevard. The area was within the City's sphere of influence, on the eastern boundary of the City.

This project was part of an overall effort to revitalize Colorado Boulevard. The unincorporated area badly needed a face-lift. It had poor signage, poor traffic engineering, and substandard water pressure. The City staff spent over 18 months working on a new streetscape concept for the area and went door-to-door talking to all property owners. The City then conducted all of the legally required pre-annexation zoning hearings, and it was apparent that the annexation effort enjoyed the broad support of the affected property owners. Fire service would be provided by a station two blocks away rather than from a Temple City fire station many miles away. The City's utility would upgrade the water system and hydrants serving the area, further enhancing public safety. Pasadena would benefit by having the opportunity to significantly improve its East Gateway to the City.

The only hurdle left to overcome was the negotiation of a property tax resolution with the County. There is no master agreement for annexations of territory in Los Angeles County which are in excess of \$10 million in assessed valuation. These must be negotiated on a case by case basis.

Before the Los Angeles LAFCO will hear an application for annexation, the County and the City are required to have an executed property tax transfer agreement. In this particular situation, the total property taxes generated by the territory were \$118,667. The County's share of these property taxes was \$34,744. In good faith, the City prepared a written proposal dated January 13, 1988 offering the County 100% of the property taxes it currently received in perpetuity and 50% of any increase in property tax revenue for the next 10 years. The proposal further provided that after 10 years, the County's share of the increment would decline by 10% each year until 2003 when the City would receive 100% of the increases in property taxes.

On February 4, 1988, a response was received. The County requested an annual property tax transfer of \$300,000 -- almost ten times the property tax revenue it was currently receiving from the territory in question. The County wanted "extra helpings" of property tax to compensate it for the loss of sales tax and hotel tax revenue. The fact that the Service Agreement the City of Pasadena had filed with LAFCO committed the City to over \$200,000 a year in the General Fund services and a \$1.9 million capital program was of no apparent consequence. Needless to say, we were so far apart there was no opportunity to find a compromise in the eight days remaining! Therefore, after two years of work, we were back to square one! The hearings, the mailings, the work with business owners and property owners were all for naught.

I recite this anecdote not to cast aspersions on Los Angeles County, but to underscore the flaws in the process. There may be times when a County and City are far apart. There is no incentive for the County to come to terms. If its objective is to block an annexation, it can simply stonewall the property tax resolution negotiations. The LAFCO hearing should be the forum to debate the merits of a particular annexation; the County has the opportunity to offer testimony, and it has representation on the LAFCO Board as well. Instead, the failure to agree on the property tax transfer is the County's "pocket veto", resulting in the LAFCO hearing never being held.

I am here today not to rake old embers over the coals but to urge changes which should remedy this problem.

The City of Pasadena strongly supports neutral third-party arbitration in the event of impasse. The staff paper has several suggestions. Of the options offered, we would support using a retired judge who will hear the case for a fee. The County and the City would split the cost. LAFCO is often physically housed in a County's administrative offices and is, therefore, not perceived as entirely objective. A Superior Court judge would not be an ideal choice, since their case load is so heavy. Annexation disputes would not be a high priority and scheduling a hearing could take years.

Nor would we recommend using the Board of Equalization. It would seem unrealistic to expect elected officials to adjudicate a proceeding between a City and County, particularly if there are partisan relationships to protect.

Another possibility is to require master agreements for annexations over \$10 million in which a strict formula is applied, thus eliminating the need for contentious and protracted negotiations. The formula would be established by statute. But reaching agreement on a formula which would be ideal in each instance could prove to be quite difficult. Such legislation could be years in the making!

Specific Recommendations

The Committee staff report asks whether the deadline for negotiations should be extended. Our answer is an emphatic yes! Thirty days is simply not sufficient in reviewing revenue estimates and assumptions on service levels and costs. On the other hand, unless there is a way to resolve an impasse 120 days would not be sufficient either. We would recommend 90 days with an arbitration procedure available in the event that the two parties cannot reach agreement.

We would not support placing revenues in an impound account while an annexation process proceeds. In the event that the County and City fail to resolve the dispute, the City would find itself providing services to new municipal citizens and businesses in the absence of a revenue base. The annexed area would be subsidized by the rest of the City. That's not good government,

and it's not fair.

Finally, in our view, annexation procedures should continue to exclude sales tax revenues. Adding sales tax revenues to the negotiations will only exacerbate an already difficult situation.

In closing, while we have offered your Committee some practical advice on resolving a difficult issue for cities and counties, we would urge you to take the long view and rethink the roles of county and city government. Resolving issues around revenue sharing is imperative, but getting counties out of the business of municipal-type services and taking on the role of providing regional leadership is far more important. That will not only help us deal with important regional problems, but will considerably diminish the "border disputes" which have adversely impacted County - City relations over the years. We should not be competitors. We must work together. Good government requires it. The citizens of California expect and deserve it.

CALIFORNIA ASSOCIATION OF LAFCOS

County Civic Center
 Courthouse Building, Room 204
 Visalia, CA 93291 • (209) 733-6284

Statement for the
 Joint Interim Hearing of the
 Senate and Assembly Committees on Local Government
 on Land Use and Local Revenue Sharing

San Jose, California
 November 17, 1989

CITY COMMISSIONERS

RICHARD O. HASTIE
 San Joaquin LAFCO

DUDLEY R. HOLMAN
 Yolo LAFCO

RENA "PAT" MURPHY
 Riverside LAFCO

DORILL WRIGHT
 Ventura LAFCO

Senator Bergeson, Assemblyman Cortese and Committee Members:

COUNTY COMMISSIONERS

BRIAN BILBRAY
 San Diego LAFCO

JOHN CONWAY
 Tulare LAFCO

GEORGE DeMARS
 Yolo LAFCO

GARY PATTON
 Santa Cruz LAFCO

Thank you for holding today's joint interim hearing.

Among the many issues you will be considering today is the process for negotiating a transfer of property tax revenues when there is an annexation or other jurisdictional change. The existing procedure allows insufficient time for the affected agencies to negotiate, even where there is complete agreement. CALAFCO believes that the agencies should be given more time; otherwise, existing law will require many proponents to start the process over to the benefit of no one.

PUBLIC COMMISSIONERS

DON HOLT
 Orange LAFCO

SUSAN McNULTY, Chair
 Contra Costa LAFCO

PHILLIPS WYMAN, JR.
 Monterey LAFCO

The annexation process has a number of steps. First, a property owner, residents or a local agency submits a proposal to LAFCO. Then LAFCO staff requests the county assessor and auditor to provide property tax data to the county and the affected city so that negotiations can commence. I want to emphasize that LAFCO's role in the property tax negotiations is limited to setting in motion the steps needed to get the necessary data to the affected local governments so they can negotiate. The property tax negotiations are a step that must be completed between the affected agencies before LAFCO can legally schedule its hearing to consider the merits of the proposal and complete the process.

SPECIAL DISTRICTS COMMISSIONERS

F. GILLAR BOYD, JR. Vice-Chair
 Riverside LAFCO

MARJORIE HERSOM
 San Diego LAFCO

Under existing law, once the agencies receive the property tax data from the county auditor, they have 30 days to negotiate and adopt resolutions agreeing to a transfer of property tax revenues. Existing law states that if LAFCO staff does not receive the resolutions within the 30 days, then the proceedings are terminated. An Attorney General's opinion issued late last year stated that property tax agreements which have taken more than 30 days to complete and submit to LAFCO are void.

STAFF

RITA BEE HILL
 Executive Officer

MICHAEL D. OTT
 Deputy Executive Officer

CLARK H. ALSOP
 Legal Counsel

WILLIAM D. DAVIS
 Legislative Chair
 590 Hamilton Street
 Redwood City, CA 94063
 (415) 363 4224

- 2 -

In response to that opinion and to address the concerns of a number of LAFCOs over the validity of past annexations, Assemblyman Cortese introduced **Assembly Bill 694** at the request of CALAFCO. As introduced, the bill would have extended the negotiating period to 90 days and would have allowed the negotiating agencies to agree mutually on a further extension. If the period were extended, the agencies would have been required to notify LAFCO, so that LAFCO in turn could insure that proponents were informed. **AB 694** also validated past agreements which had taken more than the 30 days to complete to insure that those annexations were not at risk.

While the validation part of the bill was passed and has been signed into law, the part that extended the period for negotiations was deleted and referred to interim study along with the many other tax-sharing issues that are before you today.

If the agencies cannot agree on an exchange, then obviously the time limit does not matter. But if they can agree, which is the case with the great majority of annexations, then the existing time frame is inadequate. Realistically, thirty days is simply not enough time for staffs to meet and negotiate, then docket resolutions with their respective boards and city councils for review and final approval by the elected officials. A recent survey of LAFCOs throughout the state found that where annexations require individual negotiations, the process takes from 60 to 90 days in most counties. Where there is a major annexation or one that is controversial, the tax negotiations can take longer. Given the Attorney General's opinion, many proponents will be faced with having to start the process over again if the property tax agreement has not been concluded within the 30 days current law allows, or else their proposals could be at risk legally.

Extending the negotiation period to 90 days would be a change in procedure, not policy. CALAFCO hopes that your committees will favorably consider legislation that will provide a more realistic time frame if it is introduced again next year.

Thank you.

LAGERLOF, SENEAL, DRESCHER & SWIFT
LAWYERSSUITE 2500, EQUITABLE PLAZA
3435 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90010-2071
(213) 385-4345

TELECOPIER (213) 384-8752

November 9, 1989

GEORGE W. DRYER 1881-1959
RAYMOND R. HAILS 1889-1959
JOSEPH J. BURRIS 1913-1980VENTURA OFFICE
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PLEASE REPLY TO

Los Angeles
Office**RECEIVED**

NOV 13 1989

ACWAVIA FEDERAL EXPRESSMs. Conni Barker
Director, Government Relations
and Communications
ASSOCIATION OF CALIFORNIA WATER AGENCIES
910 "K" Street, Suite 250
Sacramento, California 95814-3577Re: Proposed Amendments to Section 99 of the Revenue
and Taxation Code

Dear Conni:

The background situation which led us to conclude that Section 99 of the Revenue and Taxation Code should be amended, are as follows:

The City of Pico Rivera filed its application with the Los Angeles County Local Agency Formation Commission seeking to have Pico Water District, a county water district, established as a subsidiary district of the City. It was determined by the Board of Supervisors, which in matters involving said Section 99, negotiates on behalf of a special district, that there should be no exchange of tax revenues, and that both the City and the District should adopt resolutions confirming and accepting a no exchange of tax revenues. That was done. However, within the time permitted, the District gave notice of its intention to submit an alternative proposal to that submitted by the City. The alternative proposal sought the annexation to the District of certain lands within the City, with the intention that the District would take over the distribution of water to that area, so that the City would not have to construct a lengthy and expensive transmission line to the area in order to continue to provide it with a proper level of service.

In due course that alternative proposal was submitted to LAFCO for filing. The Board of Supervisors, again acting for the District, concluded that as to the alternative proposal, if

STANLEY C. LAGERLOF
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PHILIP C. DRESCHER
BEN A. SCHUCK III
TIMOTHY J. GOSNEY
JOHN R. MCCONICA II
W. STEPHEN ONSTOT
WILLIAM F. KRUSE
THOMAS S. BUNN III
BRUCE A. YOUNG
JOHN J. McNAMARA
ROBERT M. OSTROVE
ANDREW D. TURNER
ERIN L. PROUTY
REBECCA J. THYNE
KATE M. NEISWENDER

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Page 2

approved, there should be no exchange of tax revenues, and LAFCO requested that the City and the District adopt resolutions to that effect. The District, however, believed that with respect to its alternative proposal, there should be an exchange of tax revenues and declined to adopt a resolution as proposed by the Board of Supervisors and LAFCO. The City also declined to adopt any resolution on the subject. At or about that time the City's proposal to establish the District as a subsidiary district of the City was set for hearing by LAFCO. However, Ruth Bennell, Los Angeles County LAFCO Executive Officer, advised the District that its alternative proposal could not be set for hearing with the City's proposal, or at all, because she had not issued, and could not issue, her certificate of filing with respect to the District's alternative proposal. She explained that under Section 56828 of the Government Code, a hearing may not be set on any proposal until the executive officer of the local agency formation commission to whom the proposal has been submitted for action, issues to the applicant a certificate that the application has been filed. In particular, the impasse situation is created by the provisions of subparagraph (6) of subsection (b) of Section 99 of the Revenue and Taxation Code. It imposes the specific requirement that a certificate of filing shall not be issued until the local agencies included in the property tax revenue exchange negotiations agree concerning the matter of an exchange of property tax revenues within a specified 30-day negotiation period. The Board of Supervisors took no further action to negotiate an acceptable property tax revenue exchange.

Upon being advised by the Executive Officer of Los Angeles County LAFCO, that its alternative proposed could not be filed, the District adopted a resolution (a copy of which form is enclosed herewith) accepting the negotiated exchange of property tax revenues, which provided for no exchange of revenues. The District advised the City of its action and requested that it join in accepting the initial negotiated determination that there be no exchange of property tax revenues. The City did not respond to the request and did not adopt any resolution on the subject. Accordingly, at that point in the LAFCO proceeding a hearing has been scheduled to be held on the City's subsidiary district proposal, but no hearing was or could be scheduled for the District's alternative proposal because the Executive Officer of Los Angeles County LAFCO could not under existing law issue her certificate that the alternative proposal had been filed.

Fortunately, the hearing on the City's proposal was continued from time to time, with the consent of both parties and of LAFCO. The proceeding was settled by an interconnection agreement between the City and the District, which obviated any

LAGERLOF, SENEAL, DRESCHER & SWIFT
LAWYERS

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need by the City to construct the expensive transmission line to the area that the District proposed by its alternative proposal be annexed to the District. Had the matter not been settled, a hearing would have been held by LAFCO on the City's proposal alone, thereby effectively precluding any timely consideration of the District's alternative proposal. The proposed amendments to Section 99 of the Revenue and Taxation Code should prevent that kind of impasse situation, and in cases where the parties do not settle the controversy, a concurrent hearing can be held by LAFCO on both the original proposal and any alternative proposal.

While the situation which disclosed the need for the proposed amendments to said Section 99 dealt with a subsidiary district proposal, logically the same kind of impasse situation can develop even in those cases where alternative proposals are not involved or in other LAFCO proceedings involving jurisdictional changes that do not involve a proposal to establish a district as the subsidiary district of a city.

If you have any questions concerning the City of Pico Rivera and Pico Water District matter, please call.

Sincerely,



Jack T. Swafford
of

LAGERLOF, SENEAL, DRESCHER & SWIFT

JTS/cs
7jts5
Enclosure

Pico Water District Resolution No. _____

Pico Rivera Resolution No. _____

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF LOS ANGELES, THE CITY COUNCIL
OF THE CITY OF PICO RIVERA AND THE BOARD OF DIRECTORS
OF PICO WATER DISTRICT APPROVING AND
ACCEPTING NEGOTIATED EXCHANGE OF PROPERTY TAX
REVENUE RESULTING FROM "1988 NORTH PICO RIVERA
ANNEXATION" (IN THE CITY OF PICO RIVERA) TO
PICO WATER DISTRICT

WHEREAS, pursuant to Section 99 of the Revenue and Taxation Code, prior to the effective date of any jurisdictional change the governing bodies of all agencies whose service area or service responsibilities would be altered by such change must determine the amount of property tax revenue to be exchanged between the affected agencies and approve and accept the negotiated exchange of property tax revenues by resolution, but if the affected agency is a special district, the Board of Supervisors must negotiate on behalf of the district and

WHEREAS, it has been determined that the amount of property tax revenue to be exchanged as a result of "1988 North Pico Rivera Annexation" to Pico Water District is as set forth below.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The negotiated exchange of property tax revenues resulting from "1988 North Pico Rivera Annexation" to Pico Water District is approved and accepted.

2. For fiscal years commencing on and after July 1, 1990, or after the effective date of this jurisdictional change, no property tax revenue attributable to the "1988 Pico Rivera Annexation" area shall be transferred from the City of Pico Rivera to Pico Water District.

Pico Water District Resolution No. _____
Pico Rivera Resolution No. _____

3. No transfer of property tax revenue shall be made to or from any other taxing agency(ies) as a result of "1988 Pico Rivera Annexation" to Pico Water District.

The foregoing resolution was adopted by the Board of Supervisors of the County of Los Angeles, the City Council of the City of Pico Rivera and the Board of Directors of Pico Water District.

COUNTY OF LOS ANGELES

Chairman, Board of Supervisors

LARRY J. MONTEILH, Executive Officer-
Clerk of the Board of Supervisors

Deputy

_____ day of _____ 1988

Pico Water District Resolution No. _____

Pico Rivera Resolution No. _____

ADOPTED AND APPROVED this _____ day of _____,
1988 BY THE BOARD OF DIRECTORS OF PICO WATER DISTRICT.

AYES:

NOES:

ABSENT:

ABSTAIN:

Pico Water District Resolution No. _____
Pico Rivera Resolution No. _____

ADOPTED AND APPROVED this _____ day of _____,
1988 BY THE CITY COUNCIL OF THE CITY OF PICO RIVERA.

JAMES M. PATRONITE, MAYOR

ATTEST:

THELMA M. KAIL, CITY CLERK

APPROVED AS TO FORM:

SAMUEL SIEGEL, CITY ATTORNEY

AYES:
NOES:
ABSENT:
ABSTAIN:

DRAFT

PROPOSED LEGISLATION DEALING WITH NEGOTIATING IMPASSES ON
PROPERTY TAX EXCHANGES WITH JURISDICTIONAL CHANGES

(1) Amend paragraph (4) of subsection (b) of Section 99 of the Revenue and Taxation Code to read:

"(4) Upon receipt of the estimates pursuant to paragraph (3) the local agencies shall commence negotiations to determine the amount of property tax revenues to be exchanged between and among the local agencies. This negotiation period shall not exceed 30 60 days. The exchange may be limited to an exchange of property tax revenues from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years."

(2) Add a new paragraph (5) to subsection (b) of section 99 of the Revenue and Taxation Code to read as follows:

"(5) If within a period of 60 days from receipt of the estimates pursuant to paragraph (3), each affected local agency has not presented to the executive officer a resolution adopted by that local agency whereby it accepts an agreed exchange of property tax revenues, the negotiation for an agreement as to the amount of property tax revenues to be exchanged shall cease and the amount to be exchanged shall be an issue for determination by the commission, either at the time of the hearing on the proposal for the change of organization or reorganization or at the time it makes its determinations pursuant to Section 56836 of the Government code. In making its decision the commission shall consider (A) the total amount of revenue from all sources available to each of the affected agencies, (B) the fiscal impact of the proposed transfer on the transferring agency, and (C) any other facts which interested parties to the exchange may present to the commission in written form.

The commission may consider and determine the property tax revenue to be exchanged separate from its determination of the proposal for a change of organization or a reorganization."

(3) Amend paragraph (b) (6) of Section 99 of the Revenue and Taxation code and renumber it as paragraph (7), to read:

"(7) Notwithstanding any other provision of law, the executive officer shall not issue a certificate of filing pursuant to Section 56828 of the Government Code until (A) each of the local agencies included in the property tax revenue exchange negotiation, within the 30 60-day negotiation period present resolutions has presented a resolution adopted by each such

county and city whereby each county and city agrees to accept the exchange of property tax revenues., or (B) the 60-day period for negotiation provided in paragraph (4) has expired and the local agency initiating proceedings has submitted its proposal for an equitable exchange of property tax revenues, together with substantiating documentation to justify that proposal.

(4) Renumber existing paragraphs (5), (7) and (8) of subsection (b) of section 99 of the Revenue and Taxation Code respectively as (6), (8) and (9).

(5) Add subsection (r) to Section 56375 of the Government Code, to read:

"(r) If within the 60-day period provided by subsection (b) of Section 99 of the Revenue and Taxation Code the local agencies affected by a proposal are unable to reach agreement and present to the executive officer the required resolutions agreeing to the property tax revenues to be exchanged, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to that subsection."



OFFICE OF THE
CITY MANAGER

STATEMENT OF FRED DAVIS, CITY MANAGER, CITY OF CHICO
BEFORE THE SENATE AND ASSEMBLY COMMITTEES ON LOCAL GOVERNMENT
"LAND USE AND LOCAL REVENUE SHARING: PLAYING THE ZERO-SUM GAME"
NOVEMBER 17, 1989

I have been invited to appear before the Committees for the purpose of explaining the **MUNICIPAL AFFAIRS AGREEMENT** (see attached Exhibit "A") between the City of Chico and the County of Butte. The **MUNICIPAL AFFAIRS AGREEMENT** was approved by the City and County in November 1987 after eight lawsuits had been filed between these two agencies. Three of the lawsuits were filed by the City relating to the interpretation of the Master Property Tax Agreement between the City and the County approved in February of 1980 pursuant to Section 99 of the Revenue and Taxation Code. The lawsuits are summarized on the attached Exhibit "B".

BACKGROUND:

The Chico Urban Area is the largest urban area within Butte County, with a population of approximately 70,000, half of which reside within the City and half within the unincorporated area. The difference between the two areas is indistinguishable. The Butte County LAFCo has established the entire Chico Urban Area as the City of Chico's Sphere of Influence.

There are two other substantial urban areas within Butte County. The Oroville Urban Area has a population of approximately 45,000 with approximately 10,000 residents within its city limits. An urban population of approximately 10,000 resides in the Paradise Pines

unincorporated area northerly of the Town of Paradise which has a population of approximately 26,000. This means approximately 130,000 of the 176,000 residents of "rural" Butte County live in urbanized areas.

THE MASTER PROPERTY TAX AGREEMENT:

The Master Property Tax Agreement had several major provisions.

1. A 60% County/40% City sharing of property taxes upon annexation.
2. Separate negotiations required for commercial annexations.
3. The right to reopen negotiations on the Agreement on April 1, 1982.

If the negotiations could not be resolved by July 1, 1982, property taxes from annexations would be impounded until the matter was settled.

At the time the Agreement was approved, the City of Chico was not satisfied with either the 60/40 split or the requirement to renegotiate each commercial annexation separately. However, it did feel that it would be in a stronger negotiating position because of the reopener and the potential impoundment. The details of the lawsuits relating to the Master Property Tax Agreement are summarized in Exhibit "B".

There were one or more ad hoc agreements between the City's request to renegotiate the Master Property Tax Agreement and negotiation of the **MUNICIPAL AFFAIRS AGREEMENT**. Although these agreements made it possible to distribute some of the impounded property taxes, neither party was particularly satisfied and both the City and the County felt it was necessary to negotiate a long term **MUNICIPAL AFFAIRS AGREEMENT**.

THE REASON FOR THE LAWSUITS:

Obviously, the reason for the lawsuits was an outgrowth of Proposition 13. Butte County was making every possible attempt to protect its financial resources. At the same time, the City of Chico was attempting to establish and improve its resources in order to cope with substantial growth and to carry out its obligation under the Cortese-Knox Act which requires the City to annex any property for which annexation was requested.

DEVELOPMENT OF THE MUNICIPAL AFFAIRS AGREEMENT:

After approximately five years of lawsuits, there were a number of motivations for settling the various issues addressed in the **MUNICIPAL AFFAIRS AGREEMENT**.

1. As County Counsel Susan Roff Minasian explained to the Committee, Butte County realized it was not in a position to win any of the pending lawsuits. In many statements made during the five year period, the County admitted that the purpose of the litigation was to delay annexations or to leverage and pressure the City into giving the County a larger share of property tax, sales tax and tax increment from its redevelopment project areas.
2. The high cost of litigation, both in time and legal fees, became a tremendous drain on County resources. The City also experienced significant legal costs in defending its lawsuits.
3. There was increasingly negative public opinion of two governmental agencies using taxpayer's resources for legal costs when funds were clearly needed, particularly in the unincorporated area, to provide for public services.

4. Both the City and the County were being diverted from addressing the needs of their residents since the lawsuits took priority during that period of time.
5. Although the City was distressed that County was using lawsuits for the purposes mentioned above, the City recognized that the County could have kept these lawsuits in the appellate court for another two to three years.

PROVISIONS OF THE MUNICIPAL AFFAIRS AGREEMENT:

Summarized below are the major provisions of the **MUNICIPAL AFFAIRS AGREEMENT**.

1. The property tax exchange on all annexations was modified from 60% County/40% City to 55%/45%.
2. The City agreed to share 5% of the City's sales tax with the County, or one-half of the sales tax from the North Valley Plaza, whichever was greater. The North Valley Plaza regional shopping center, which had requested annexation to the City, was the subject of one of the lawsuits summarized in Exhibit "B".
3. In order to settle one of the lawsuits, the City agreed to provide the County with a 70% pass through of tax increment from the Central Chico Redevelopment Project Area. (The City had agreed to a 70% pass-through on previous redevelopment project areas and had made a similar offer on the Central Chico Redevelopment Project Area prior to the litigation, which the County lost.)
4. The City and County agreed to work toward the establishment of an Urban Area Redevelopment Project Area to include a large, older developed area of the community which has a particularly urgent need for public facilities. This includes the need for sewers and

storm drains as a result of a Prohibition Order by the State Regional Water Quality Control Board which has prohibited the installation of septic tanks and ordered the removal of existing septic systems within the next five years.

5. The City agreed that if it proposed to expand any of the existing redevelopment project areas, it would explore methods for the Redevelopment Agency to fund the debt service for the Chico Branch of the Butte County Library. (The Library was financed with a bond issue without voter approved funding and, therefore, requires debt service of approximately \$400,000 from the County's General Fund.)
6. The County agreed that it would not challenge any annexations within the City's Sphere of Influence for economic reasons unless the area to be annexed contained more than 10% (approximately 7,000) of the Urban Area population. One of Butte County's lawsuits, which is summarized in Exhibit "B", related to the need for the City to consider economic matters in the Environmental Impact Report for the North Valley Plaza annexation.
7. The City agreed that it should be the primary service provider within the Sphere of Influence and that the City would negotiate with the County to provide urban services based upon the direct cost to the City.
8. The City and County agreed to meet and confer on an automatic aid agreement for fire service and on the location of fire stations within the Chico Urban Area.

SUMMARY:

1. As has been indicated at many other hearings and meetings of City and County officials, the real issues between the City of Chico and

the County of Butte all relate to the limited amount of revenue available to local government in the era of Proposition 13, Gann and other Constitutional and Legislative enactments.

2. It is clear that California counties have been overburdened by State mandates as well as court orders, particularly as they relate to welfare, general assistance, jails and the criminal justice system. (On the other hand, it should not be overlooked that cities also have been burdened with many State and Federal mandates, particularly as they relate to areas such as wastewater disposal, OSHA requirements, workers compensation, unemployment insurance, Social Security (FICA) and FLSA.)

IT IS CLEAR THAT THE STATE MUST SHOULDER ITS OWN RESPONSIBILITIES BY PROVIDING FINANCIAL RESOURCES FOR THE PROGRAMS IT MANDATES.

3. In recognition of the fact that the unincorporated urban areas continue to demand a relatively high level of fire and police protection, animal control programs and planning regulations, it is essential that the County require that these urban areas pay for these services, just as City residents must pay for similar services. This has not been true in Butte County in the past, although it appears there may be several ballot measures before the voters at the June 1990 election. It has been estimated that the City residents pay approximately \$75-100 more in taxes of one kind or another than residents of the unincorporated urban area. If the County was levying similar charges through the County Service Area Law or other appropriate legislation, it would not be faced with

the dire financial situation described by the County today, which includes consideration of bankruptcy.

RESPONSES TO QUESTIONS AND COMMENTS:

1. Assemblyman Cortese indicated that the City of San Jose and Santa Clara County had utilized the Urban Service Area concept authorized by the laws governing LAFCo and questioned why this would not be helpful in resolving some of the problems between the City of Chico and the County of Butte.

The City of Chico made an effort to establish an Urban Service Area but was unable to convince LAFCo or Butte County to proceed with the establishment of an Urban Service Area. It is the City's desire to establish an Urban Service Area for Chico as soon as LAFCo can be convinced of its merits.

2. A Committee Member asked why cities were interested in annexing property if the cost to provide services would exceed revenues, particularly if a city did not have strong financial resources.

My response is that the Cortese-Knox Act **requires** cities to annex property within its sphere of influence when there are sufficient petitioners and a lack of protest. Cities also prefer to annex property so that it can be integrated into its planning process since it is typical that when an area needs urban services, residents want to become part of the city.

3. A Committee Member questioned whether LAFCo should be eliminated and, if so, what would be the substitute.

Prior to the adoption of State legislation establishing LAFCo, the Legislature considered authorizing cities to annex unincorporated urban areas when they reached a certain density and met a number of other criteria provided for in the legislation. The proposal also included a statewide board, similar to PERB, which would act as an adjudicator in order to protect agricultural areas and residents and property owners who did not feel that the city was following the intent of the legislation. Unfortunately, the Legislature, because of opposition to the process, instead established local LAFCo's. In many cases, as in Butte County, LAFCo has not necessarily improved the process for expansion of cities and/or the protection of agricultural areas.

City of Chico

SUMMARY OF LITIGATION - CITY VS. COUNTY

Court Case No. / Date Filed	Title	Primary Issue	Resolution
BC 78141 / 6/3/82	City of Chico vs. Butte County LAFCO	Whether the LAFCO Executive Officer could suspend a Certificate of Filing on grounds that the City's request to renegotiate the Master Property Tax Transfer Agreement terminated the agreement.	The Executive Officer of LAFCO reissued the Certificate of Filing before this matter went to hearing on the merits. Accordingly, the matter was moot, and the City dismissed the action.
BC 78204 / 7/19/82	Chico Redevelopment Agency vs. James Johansen, Auditor of the County of Butte	Whether the Butte County Auditor was required to accept an amended statement of indebtedness filed by the Chico Redevelopment Agency after October 1 and allocate to the Agency the additional amount of tax increments provided by such amended statement of indebtedness.	The Court entered a judgment in favor of the Chico Redevelopment Agency requiring the Auditor to accept the amended statement of indebtedness and allocate the additional amount of tax increments set forth therein.
BC 79123 / 9/24/82	City of Chico vs. County of Butte	Whether the City's request to renegotiate the Master Property Tax Transfer Agreement terminated the agreement.	The Court entered a judgment declaring that the City's request to renegotiate the Master Property Tax Transfer Agreement did not terminate the agreement. The Court also ordered all property taxes from annexed properties to be impounded until the City and County had agreed upon a new Master Property Tax Transfer Agreement.
BC 81072 / 5/20/83	County of Butte vs. Chico Redevelopment Agency	A challenge to Chico Municipal Airport Redevelopment Project on a number of grounds, including whether the Agency and City could properly find that property in the project area was blighted within the meaning of the Redevelopment Law.	The action was settled before going to trial, and under the settlement the City agreed to pass through to the County 70% of County's portion of the tax increments generated within the area.
BC 82106 / 9/28/83	City of Chico vs. County of Butte	Whether the Master Property Tax Transfer Agreement between the City and County required the City to negotiate sales tax after the City had agreed to give the County 100% of all property tax revenues from annexed commercial properties.	The Court entered a judgment declaring the City had no obligation under the Master Property Tax Transfer Agreement to negotiate sales tax. The County appealed but dismissed the appeal after the settlement conference at which the Court advised that the appeal was meritless.
S 336291 / 8/23/85	County of Butte vs. Chico Redevelopment Agency	Challenge to the Central Chico Redevelopment Project Area on a number of grounds, including whether the Agency and City could properly find that property in the project area was blighted within the meaning of the Redevelopment Law.	After trial the Court upheld the validity of the Central Chico Redevelopment Project Area formation proceedings. The County appealed to the Third District Court of Appeals, but the Municipal Affairs Agreement resulted in the dismissal of that appeal.

BC = Butte County Superior Court / S = Sacramento County Superior Court

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City of Chico

SUMMARY OF LITIGATION - CITY VS. COUNTY

Court

<u>Case No. / Date Filed</u>	<u>Title</u>	<u>Primary Issue</u>	<u>Resolution</u>
S 340790 / on or about 6/9/86	County of Butte vs. City of Chico	Attack on the Environmental Impact Report for the North Valley Plaza Mall annexation on a number of grounds, including that the report did not consider the economic impact on the County of Butte.	After trial the Court determined that the City was not required to consider the annexation's economic impact on the County of Butte as part of the environmental process. But the Court did find other deficiencies in the EIR. City and County filed cross appeals. However, before the cross appeals were resolved, the Municipal Affairs Agreement resulted in the dismissal of those cross appeals.
BC 91304 / 6/13/86	County of Butte vs. City of Chico	The issue was the validity of the tax increment bonds issued by the Chico Redevelopment Agency for the Southeast Chico Redevelopment Project Area.	The court upheld the validity of the bonds and dismissed the lawsuit.

BC = Butte County Superior Court / S = Sacramento County Superior Court

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*See Attached Amended Master
PROPERTY TAX TRANSFER AGREEMENT*

MUNICIPAL AFFAIRS AGREEMENT
(COUNTY OF BUTTE/BUTTE COUNTY MOSQUITO ABATEMENT DISTRICT/
CITY OF CHICO/CHICO REDEVELOPMENT AGENCY)

THIS AGREEMENT, is made and executed in quadruplicate this
4th day of November, 1987, by and among the County of Butte, a
political subdivision of the State of California (hereinafter
referred to as "County"), the Butte County Mosquito Abatement
District, a special district organized and existing under and by
virtue of the laws of the State of California (hereinafter
referred to as "District"), the City of Chico, a municipal
corporation of the State of California (hereinafter referred to
as "City"), and the Chico Redevelopment Agency, a redevelopment
agency organized and existing under and by virtue of the laws of
the State of California (hereinafter referred to as "Agency").

W I T N E S S E T H:

WHEREAS, during the past few years, County and District, on
the one hand, and City and Agency, on the other, have found
themselves embroiled in a continuing dispute over the appropriate
division of tax revenues derived from properties located in the
Chico Urban Area which are being annexed to the incorporated
territory of City, the Chico Urban Area being defined for purposes
of this Agreement as the Chico Sphere of Influence as now or

1 hereafter adopted by the Butte County Local Agency Formation
2 Commission, as well as tax increment revenues derived from
3 properties which are located in redevelopment project areas
4 formed by City and Agency within the incorporated territory of
5 City; and

6 WHEREAS, the focus of this ongoing controversy is the tax
7 revenues which are and will be derived from properties within the
8 proposed annexation district designated by the Butte County Local
9 Agency Formation Commission as Pillsbury Road Annexation District
10 No. 4 (#86-22 - City of Chico), as well as the tax increment
11 revenues to be derived from the properties within the redevel-
12 opment project area formed by Agency and City known as the
13 "Central Chico Redevelopment Project Area"; and

14 WHEREAS, by this Agreement, County, District, City, and
15 Agency desire to resolve the foregoing controversy and establish
16 policies which insure that County and District continue to
17 receive a portion of the tax revenues which otherwise would have
18 been lost to them by reason of the annexation of properties
19 located in the unincorporated portion of the Chico Urban Area to
20 the incorporated territory of City, including but not limited to
21 those properties within Pillsbury Road Annexation District No. 4,
22 and/or the formation by Agency of the Central Chico Redevelopment
23 Project Area; and

24 WHEREAS, by this Agreement, County, District, City, and
25 Agency also desire to set forth mutual understandings which will
26 permit a cooperative approach to the future annexation of proper-
27 ties in the unincorporated portion of the Chico Urban Area to the
28 incorporated territory of City and the formation of additional

1 redevelopment project areas by Agency within the Chico Urban
2 Area, as well as the cost effective provision of municipal
3 service to property owners and residents within both the incorpo-
4 rated and unincorporated portions of the Chico Urban Area; and

5 WHEREAS, in entering into this Agreement and authorizing the
6 exchange of City property tax revenues provided for herein
7 pursuant to the provisions of Section 99.4 of the California
8 Revenue and Taxation Code, City has determined, as required by
9 Section 99.4(f) of the California Revenue and Taxation Code, that
10 such property tax revenues are available for such purpose, that
11 such exchange will not result in any increase in the ratio
12 between the amount of revenues of City which are generated by
13 regulatory licenses, use charges, user fees, or assessments and
14 used to finance services provided by City, that such exchange
15 will not impair the ability of City to provide existing services,
16 and that such exchange will not result in a reduction of property
17 tax revenues available to school entities; and

18 WHEREAS, in entering into this Agreement and authorizing the
19 payments from City's general fund provided for herein, City has
20 also determined that such payments are necessary in order to
21 avoid reductions in the level of services which are provided by
22 County both in the incorporated and unincorporated territory of
23 County and therefore of particular benefit to City residents and
24 property owners; and

25 WHEREAS, in entering into this Agreement and authorizing the
26 payments of Agency tax increment revenues provided for herein
27 pursuant to Section 33401 of the California Health and Safety
28 Code, Agency has determined, as required by Section 33401 of the

1 California Health and Safety Code, that such payments are neces-
2 sary and appropriate to alleviate any financial burden caused to
3 County or District by the formation of the Central Chico Redevel-
4 opment Project Area.

5 NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

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ARTICLE I

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AGREEMENTS OF COUNTY AND CITY IN REGARD TO SALES AND USE TAXES,
PROPERTY TAXES, AND SERVICES PROVIDED WITHIN THE CHICO URBAN AREA

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1.01 Adjustments to Local Sales and Use Tax Rates to be Made
Under the Bradley Burns Uniform Local Sales and Use Tax Law,
Exchange of Property Tax Revenues to be Made Under Section
99.4 of the California Revenue and Taxation Code, or Pay-
ments to be Made From City's General Fund.

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(a) Pursuant to the Bradley Burns Uniform Local Sales
and Use Tax Law, Part 1.5, Division 2, of the Califor-
nia Revenue and Taxation Code (commencing with Section
7200) County and City have amended the local sales and
use tax ordinances adopted by them as follows:

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(i) County has amended its local sales and use tax
ordinance in a manner which will establish a local
sales and use tax rate of one and one-quarter
percent (1¼%) within all of the incorporated and
unincorporated territory of the County, effective
January 1, 1988, and in a manner which will
provide for a credit against the payment of taxes
due under such ordinance in an amount equal to any

1 sales and use tax due any city within County under
2 such city's local sales and use tax ordinance, a
3 copy of such County ordinance being attached
4 hereto marked Exhibit "A" and by this reference
5 incorporated herein.

6 (ii) City has amended its local sales and use tax
7 ordinance in a manner which will establish a local
8 sales and use tax rate of ninety-five hundredths
9 percent (.95%) within the incorporated territory
10 of City, effective January 1, 1988, and in a
11 manner which will provide for a credit against the
12 payment of such taxes due under such ordinance in
13 an amount equal to any sales and use tax due to
14 Agency under any local sales and use tax ordinance
15 hereafter adopted by Agency, a copy of such City
16 ordinance being attached hereto marked Exhibit "B"
17 and by this reference incorporated herein.

18 (b) County and City agree that if either or both
19 of the amended local sales and use tax ordinances
20 referred to in Subpart (a) of this Section are declared
21 invalid or inoperative by a court of competent juris-
22 diction or if the County is deprived of funds which
23 would have been due County thereunder by reason of the
24 further amendment of City's local sales and use tax
25 ordinance or the repeal thereof, then County and City,
26 in accordance with the provisions of Section 99.4 of
27 the California Revenue and Taxation Code, shall make an
28 exchange of property tax revenues received by City from

1 properties within or annexed to the incorporated
2 territory of City prior to January 1, 1978, which is
3 equal to all of the local sales and use tax revenues
4 lost by County by reason thereof, such exchange of
5 property tax revenues to be made in the manner and in
6 accordance with the schedule mutually agreed upon by
7 the Chief Administrative Officer of County and the City
8 Manager of City.

9 (c) County and City further agree that if either or
10 both of the amended local sales and use tax ordinances
11 referred to in Subpart (a) of this Section, as well as
12 the exchange of property tax revenues referred to in
13 Subpart (b) of this Section, are declared invalid or
14 inoperative by a court of competent jurisdiction, then
15 City shall pay to County, out of City's general funds,
16 a sum equal to the sales and use tax revenues lost by
17 County by reason thereof. Such payments shall also be
18 made in the manner and in accordance with the schedule
19 mutually agreed upon by the Chief Administrative
20 Officer of County and the City Manager of City;
21 provided that until the Chief Administrative Officer of
22 County and the City Manager of City have agreed on such
23 matters, the County Auditor shall be entitled to
24 impound a portion of the City's share of the property
25 tax revenues which are being exchanged by County and
26 City pursuant to the provisions of Section 99 of the
27 California Revenue and Taxation Code in the manner
28 hereinafter provided for in Section 1.02 of this

Article and which are equal in amount to any sales tax revenues actually lost by County by reason of the invalidity or the inoperativeness of the amended local sales and use tax ordinances referred to in Subpart (a) of this Section or by reason of the further amendment of the City's local sales and use tax ordinance or repeal thereof.

1.02 Exchange of Property Tax Revenues to be Made Under Section 99 of the California Revenue and Taxation Code.

(a) Pursuant to the provisions of Section 99 of the California Revenue and Taxation Code, County and City agree that effective on the date of this Agreement, all property tax revenues available to County and City from properties annexed to the incorporated territory of City between January 1, 1978, and December 31, 1986, as set forth in Exhibit "C" attached hereto and by this reference incorporated herein, as well as all property tax revenues available to County and City from properties annexed to the incorporated territory of City subsequent to January 1, 1987, shall be divided between County and City as follows:

County Share - 55%

City Share - 45%

(b) County and City also agree that between the date of this Agreement and the end of the first fiscal year in which five percent (5%) of the "total sales and use tax revenues received by both County and City" (as hereinafter defined in this Subpart [b]) during such

1 year from all properties within the incorporated
2 territory of City is equal to or greater than one-half
3 of the total sales and use tax revenues received by
4 both County and City during such year from property
5 within Pillsbury Road Annexation District No. 4, County
6 will be entitled to the following additional portion of
7 property tax revenues available to County and City from
8 properties annexed to the incorporated territory of
9 City between January 1, 1978, and December 31, 1986, as
10 well as all properties annexed to the incorporated
11 territory of City subsequent to January 1, 1987, the
12 same to be deducted from and paid over to County from
13 City's forty-five percent (45%) share of such property
14 taxes hereinbefore provided for in Subpart (a) of this
15 Section:

16 (i) Effective on January 1, 1988, and continuing
17 thereafter until June 30, 1988, County shall be
18 entitled to an additional portion of such property
19 tax revenues equal to:

20 (A) One hundred percent (100%) of the total sales
21 and use tax revenues received by both County
22 and City between January 1, 1988, and June
23 30, 1988, from all properties within
24 Pillsbury Road Annexation District No. 4;
25 minus

26 (B) Five percent (5%) of the total sales and use
27 tax revenues received by both County and City
28 between January 1, 1988, and June 30, 1988,

1 from all properties within the incorporated
2 territory of City.

3 (ii) Effective July 1, 1988, and continuing each year
4 thereafter until the end of the first fiscal year
5 in which five percent (5%) of the total sales and
6 use tax revenues received by both County and City
7 during such year from all properties within the
8 incorporated territory of City is equal to or
9 greater than one-half of the total sales and use
10 tax revenues received by both County and City from
11 all properties within Pillsbury Road Annexation
12 District No. 4, County shall be entitled to an
13 additional portion of such property tax revenues
14 equal to:

15 (A) One-half of the total sales and use tax
16 revenues received by both County and City
17 during the year from all properties within
18 Pillsbury Road Annexation District No. 4;
19 minus

20 (B) Five percent (5%) of the total sales and use
21 tax revenues received by both County and City
22 during the year from all properties within
23 the incorporated territory of City.

24 For purposes of this Subpart (b), the term "total sales
25 and use tax revenues received by both County and City"
26 shall mean all sales and use tax revenues which have
27 been received by the State Board of Equalization from
28 the local sales and use taxes levied by County and City

1 within the incorporated territory of City pursuant to
2 the provisions of the Bradley Burns Uniform Local Sales
3 and Use Tax Law in effect on the date of this Agreement
4 and which actually have been distributed by the State
5 Board of Equalization to County and City, save and
6 except for any portion of such local sales and use
7 taxes levied by County in order to fulfill its obliga-
8 tions under the provisions of Article 11, Chapter 2,
9 Division 3, Title 3, of the California Government Code
10 in effect on the date of this Agreement (commencing
11 with Section 29530) relating to the local transporta-
12 tion fund. Moreover, for purposes of this Agreement,
13 the term "fiscal year" shall mean any year commencing
14 on July 1st and ending on June 30th.

15 (c) County and City further agree that all of the
16 exchanges of property taxes required by this Section
17 shall be made by the County Auditor. In carrying out
18 the provisions of Subpart (b) of this Section, the
19 County Auditor shall make the exchanges required
20 therein from that part of City's share of the property
21 taxes referred to therein which is paid by the County
22 Auditor to City subsequent to April 10 of the fiscal
23 year or portion thereof for which such exchange is
24 being made. Moreover, in carrying out the provisions
25 of Subpart (b) of this Section, the County Auditor
26 shall determine the amount of exchange required therein
27 from the total estimated sales and use taxes which will
28 be received by both County and City from all properties

1 within the incorporated territory of City as well as
2 all properties within Pillsbury Road Annexation Dis-
3 trict No. 4 for the fiscal year or any portion thereof
4 in which such exchange is being made, as agreed upon by
5 the County Auditor and the City Finance Officer, or if
6 they are unable to agree, as determined by an indepen-
7 dent consultant selected by the Chief Administrative
8 Officer of County and the City Manager of City, all
9 costs of which will be equally shared by County and
10 City; provided, however, that as soon as possible
11 following the end of each such fiscal year, the County
12 Auditor, after consulting with the City Finance
13 Officer, shall reconcile the estimated amount of such
14 sales and use taxes with the actual amount of such
15 sales and use taxes and make any adjustments in the
16 deductions and payments required by Subpart (b) of this
17 Section which are necessary to account therefor, shall
18 provide a report of such reconciliation and adjustments
19 to the City Finance Officer, and shall either remit to
20 or bill City for any amounts required by such
21 reconciliation and adjustment; and provided further,
22 that if the County Auditor, after undertaking such
23 reconciliation and making such adjustment, bills City
24 for any amounts required by the reconciliation and
25 adjustment, then City shall pay to County the amount
26 set forth in such bill within 45 days of receipt of
27 same.

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1 Concurrently with the execution of this Agreement
2 County and City will also execute an "Amended Master
3 Property Tax Transfer Agreement" in accordance with the
4 provisions of Section 99(d) of the California Revenue
5 and Taxation Code, which Amended Master Property Tax
6 Transfer Agreement shall implement the provisions of
7 this Section and be in all respects consistent with any
8 other applicable terms or conditions of this Agreement.

9 1.03 Services.

10 (a) It is the intent of County and City that in the
11 future City will assume responsibility to provide the
12 following services to the unincorporated portion of the
13 Chico Urban Area, subject to negotiation of a detailed
14 agreement between County and City relating to the level
15 of such services, the reimbursement of costs incurred
16 by City in providing such services, the obligation of
17 the owners of property benefited by such services to
18 annex such property to the incorporated territory of
19 City, and any other matter of concern to either County
20 or City:

- 21 (i) Animal Control
- 22 (ii) Parks
- 23 (iii) Planning and Building Inspection
- 24 (iv) Law Enforcement
- 25 (v) Sanitary Sewers
- 26 (vi) Storm Drainage
- 27 (vii) Street Lighting
- 28 (viii) Street Maintenance

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- (ix) Street Trees
- (x) Public Transportation

(b) County and City also agree to meet and confer no later than January 1, 1988, in order to explore the feasibility of an agreement between County and City in the following matters relating to the fire suppression services provided by County and City within both the incorporated and unincorporated portions of the Chico Urban Area:

- (i) Automatic Aid
- (ii) Location of Fire Stations
- (iii) Any other matters relating to fire suppression services determined to be of mutual interest to both County and City.

(c) County and City further agree that City shall make space available to County at the Chico Municipal Services Center for the parking and storage of the County's vehicles and equipment at no cost to County; provided, however, that the amount and location of the space to be made available and the type of County vehicles or equipment to be stored in such space shall be subject to further negotiations by County and City; and provided further that if County requests City to maintain or provide other services related to County vehicles and equipment stored at the Chico Municipal Services Center, then County shall reimburse City for all costs incurred by City in providing such services.

1 1.04 Future Annexations.

2 (a) County and City agree that except as otherwise
3 provided in this Section, this Agreement and the
4 division of tax revenues provided for herein fully
5 mitigates all adverse economic effects now or hereafter
6 caused to County as a result of the annexation of
7 residential, commercial or any other properties within
8 the unincorporated portion of the Chico Urban Area to
9 the incorporated territory of City, including but not
10 limited to the proposed annexations of properties
11 within Pillsbury Road Annexation District No. 4 and
12 Esplanade Annexation District No. 18, and by reason
13 thereof, County will not oppose on economic grounds any
14 petitions or applications now or hereafter filed to
15 annex properties within the unincorporated portion of
16 the Chico Urban Area to the incorporated territory of
17 City, including but not limited to the pending applica-
18 tions relating to Pillsbury Road Annexation District
19 No. 4 and Esplanade Annexation District No. 18.

20 (b) County and City agree, however, that this Agree-
21 ment is not intended to address the economic effects of
22 any particular annexation application or petition which
23 proposes the annexation of a substantial part of the
24 unincorporated portion of the Chico Urban Area to the
25 incorporated territory of City, and that by reason
26 thereof, neither County nor City shall be precluded by
27 the terms of this Agreement from opposing such annexa-

28 -----

1 tion on economic grounds or any other grounds whatsoev-
2 er.

3 For purposes of this Section, the term "substan-
4 tial part of the unincorporated territory of the Chico
5 Urban Area" shall mean any part of the unincorporated
6 portion of the Chico Urban Area containing ten percent
7 (10%) or more of the total population of both the
8 unincorporated and incorporated portions of the Chico
9 Urban Area, the same to be determined on the basis of
10 the population per household for the City of Chico as
11 established by the State Department of Finance, and the
12 number of households within the Chico Urban Area and
13 the area proposed to be annexed as jointly agreed upon
14 by the County and City Planning Directors, or, in the
15 event the County and City Planning Directors are unable
16 to agree, by an independent consultant selected by the
17 Chief Administrative Officer of County and the City
18 Manager of City, all costs of which shall be equally
19 shared by County and City.

20 1.05 Pending Litigation.

21 County and City agree that the provisions of this
22 Agreement shall settle the ongoing dispute between County
23 and City over the annexation of properties within Pillsbury
24 Road Annexation District No. 4, and that by reason thereof,
25 County will promptly dismiss with prejudice that certain
26 action on file in Sacramento County Superior Court entitled
27 County of Butte v. City of Chico, the same being designated
28 Sacramento County Superior Court Action No. 340790, as well

1 as the appeal to the Third District Court of Appeals from
2 the trial court's decision in said action, the same being
3 designated as Third District Court of Appeals Action No. 3
4 Civil C001976.

5
6 ARTICLE II

7 AGREEMENTS OF COUNTY, DISTRICT, CITY, AND AGENCY
8 IN REGARD TO REDEVELOPMENT PROJECT AREAS
9

10 2.01 Existing Redevelopment Project Areas.

11 As of the date of this Agreement, City and Agency have
12 approved redevelopment plans for three redevelopment
13 projects located in the incorporated territory of City
14 identified as the Southeast Chico Redevelopment Project
15 Area, the Chico Municipal Airport Redevelopment Project
16 Area, and the Central Chico Redevelopment Project Area.
17 Moreover, pursuant to the provisions of Section 33401 of the
18 California Health and Safety Code, County, District, and
19 Agency have also entered into public agency reimbursement
20 agreements for both the Southeast Chico Redevelopment
21 Project Area and the Chico Municipal Airport Redevelopment
22 Project Area which provide for the payment by Agency to
23 County and District of seventy percent (70%) of County and
24 District "share" of tax increments received by Agency from
25 each such project area.

26 County, District, and Agency now agree that concurrent-
27 ly with the execution of this Agreement, they will enter
28 into additional public agency reimbursement agreements for

1 the Central Chico Redevelopment Project Area in which Agency
2 will agree to pay to County and District seventy percent
3 (70%) of the County and District "share" of tax increment
4 revenues received by Agency from the Central Chico Redevel-
5 opment Project Area, the same being defined in such agree-
6 ments as the difference between the amount of property taxes
7 actually received by County or District from the Central
8 Chico Redevelopment Project Area during such fiscal year and
9 the amount of property tax revenues which County or District
10 would have received from the Central Chico Redevelopment
11 Project Area for such fiscal year but for the adoption of a
12 redevelopment plan for the Central Chico Redevelopment
13 Project Area.

14 Moreover, Agency and City agree they will not request
15 or approve an expansion of the boundaries of either the
16 Southeast Chico Redevelopment Project Area, Chico Municipal
17 Airport Redevelopment Project Area, or Central Chico Rede-
18 velopment Project Area without reasonable notice to and full
19 consultation with County, and that they will explore with
20 County ways in which the tax increment revenues from these
21 existing redevelopment project areas may be used to pay all
22 or a portion of the outstanding debt of the County for
23 constructing the County building which houses the Chico
24 Branch of the Butte County Library system.

25 2.02 Proposed Joint Chico Urban Area Redevelopment Project Area.

26 County, City, and Agency agree that they will use their
27 best efforts to cooperate on the formation of a joint Chico
28 Urban Area Redevelopment Project Area. County, City, and

1 Agency further agree that as part of the formation proceed-
2 ings for such joint redevelopment project area, they will
3 establish a procedure for the joint selection of improvement
4 projects within the joint redevelopment project area, and
5 that in selecting improvement projects, they will give a
6 high priority to repayment of the outstanding debt of County
7 for the construction of County building which houses the
8 Chico Branch of the Butte County Library system. After
9 formation of such joint redevelopment project area, County,
10 City, and Agency will also explore ways of merging existing
11 redevelopment project areas within the incorporated territo-
12 ry of City with the joint redevelopment project area.

13 By the execution of this Agreement, neither County nor
14 District waives the right to request payment authorized by
15 Section 33401 of the California Health and Safety Code to
16 alleviate any financial burden or detriment caused by a
17 joint Chico Urban Area Redevelopment Project Area.

18 2.03 Agency Sales Taxes.

19 County, City, and Agency agree that in accordance with
20 the provisions of the Bradley Burns Uniform Local Sales and
21 Use Tax Law, Agency shall not adopt a sales and use tax rate
22 which is greater than the sales and use tax rate adopted by
23 City.

24 2.04 Pending Litigation.

25 County, District, City, and Agency agree that the
26 provisions of this Agreement settle the ongoing dispute
27 between County and District on the one hand and City and
28 Agency on the other hand over the formation of the Central

1 Chico Redevelopment Project Area, and that by reason there-
2 of, County and District will dismiss the appeal to the Third
3 District Court of Appeals from the trial court's decision in
4 the action entitled County of Butte, et al. v. All Persons
5 Interested in the Matter of the Central Chico Redevelopment
6 Plan for the Central Chico Project Area for the City of
7 Chico, et al., the same being designated Third District
8 Court of Appeals Action No. 3 Civil C002562.

9
10 ARTICLE III

11 GENERAL PROVISIONS

12
13 3.01 Term.

14 County, District, City, and Agency intend that this
15 Agreement shall remain in full force and effect forever,
16 unless terminated earlier by mutual agreement. Provided,
17 however, in the event that this Agreement is required by law
18 to have a termination date in order to be fully effective,
19 then this Agreement shall terminate on the latest date
20 permitted by law as to any provision required by law to have
21 a termination date and it will remain in full force and
22 effect thereafter as to all other provisions.

23 3.02 Modification.

24 Article I of this Agreement and all of the covenants
25 and conditions set forth therein may be modified or amended
26 only by a writing duly authorized and executed by both
27 County and City, and Article II of this Agreement and all of
28 the covenants and conditions set forth therein may be

1 modified or amended only by a writing duly authorized and
2 executed by County, District, City, and Agency.

3 3.03 Reformation.

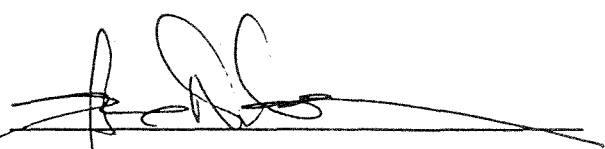
4 County, District, City, and Agency understand and agree
5 that this Agreement is based on existing law, and that such
6 law may be substantially amended in the future. In the
7 event of an amendment of state law which renders this
8 Agreement invalid or inoperable or which denies any party
9 hereto of the full benefit of this Agreement as set forth
10 herein, in whole or in part, then County, District, City,
11 and Agency agree to reform this Agreement and any and all
12 documents attached hereto or executed concurrently herewith
13 to accomplish the intent of the County, District, City, and
14 Agency as set forth herein. In the event County, District,
15 City, and Agency cannot reach an understanding in regard to
16 the reformation of this Agreement within six months, then
17 County, District, City, or Agency may file a petition with
18 the Butte County Superior Court to judicially reform this
19 Agreement.

20 IN WITNESS WHEREOF, the parties have executed this Agreement
21 in the County of Butte, State of California, on the dates set
22 forth below.

23 COUNTY OF BUTTE

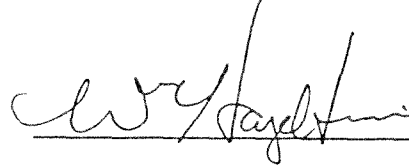
24
25 NOV 4 1987

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27 Date

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Jane Dolan, Chair
Butte County Board of
Supervisors

BUTTE COUNTY MOSQUITO
ABATEMENT DISTRICT

NOV 4 1987



Date

William Hazeltine, Manager

CITY OF CHICO and CHICO
REDEVELOPMENT AGENCY

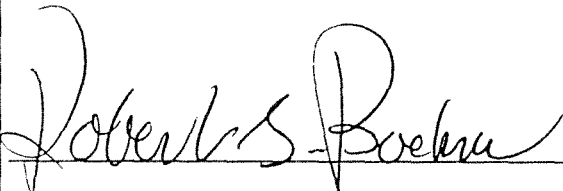
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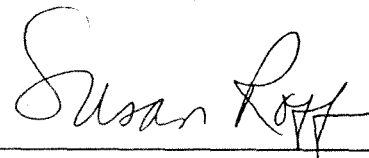
Date

Fred Davis, City Manager
City of Chico and Executive
Director of the Chico
Redevelopment Agency

APPROVED AS TO FORM:



Robert G. Boehm, City Attorney
of the City of Chico and
Attorney for the Chico
Redevelopment Agency



Susan Roff, Butte County
Counsel

Authorized Pursuant to City of Chico
Joint City Council/Redevelopment Agency
Resolution Nos. 49 87-88/RDA 5-87
Adopted November 3, 1987

Authorized Pursuant to Butte County
Board of Supervisors Resolution #87-267
approved November 3, 1987

Authorized Pursuant to Motion of the
Board of Directors of the Butte County
Mosquito Abatement District at a Special
Meeting held on November 2, 1987.

UNIFORM COUNTY SALES AND USE TAX ORDINANCE

Section 1. This ordinance shall be known as the Butte County Uniform Local Sales and Use Tax Ordinance.

Section 2. The Board of Supervisors of the County of Butte hereby declares that this ordinance is adopted to achieve the following, among other, purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(a) To adopt a sales and use tax ordinance which complies with the requirements and limitations contained in Part 1.5 of Division 2 of the Revenue and Taxation Code of the State of California;

(b) To adopt a sales and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.5 of Division 2 of the said Revenue and Taxation Code;

(c) To adopt a sales and use tax ordinance which imposes a one and one-quarter percent (1 1/4%) tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes;

(d) To adopt a sales and use tax ordinance which can be

1 administered in a manner that will, to the degree possible, be
2 consistent with the provisions of Part 1.5 of Division 2 of the
3 said Revenue and Taxation Code, minimize the cost of collecting
4 county sales and use taxes and at the same time minimize the
5 burden of record keeping upon persons subject to taxation under
6 the provisions of this ordinance;

7 Section 3. This ordinance shall become operative on January
8 1, 1988.

9 Section 4. (a) For the privilege of selling tangible
10 personal property at retail a tax is hereby imposed upon all
11 retailers in the County at the rate of one and one-quarter
12 (1 1/4%) of the gross receipts of the retailer from the sale of
13 all tangible personal property sold at retail in the County of
14 Butte.

15 (b) For the purposes of this ordinance, all retail sales
16 are consummated at the place of business of the retailer unless
17 the tangible personal property sold is delivered by the retailer
18 or his agent to an out-of-state destination or to a common
19 carrier for delivery to an out-of-state destination. Delivery
20 charges shall be included in the gross receipts by which the tax
21 is measured, regardless of the place to which delivery is made,
22 when such charges are included in the measure of the sales or use
23 tax imposed by the State of California. In the event a retailer
24 has no permanent place of business in the State of California, or
25 has more than one place of business, the place of places at which
26 retail sales are consummated shall be as determined under rules
27 and regulations prescribed and adopted by the Board of
28 Equalization.

1 (b) (1) Except as hereinafter provided, and except insofar
2 as they are inconsistent with the provisions of Part 1.5 of
3 Division 2 of the Revenue and Taxation Code of the State of
4 California, all of the provisions of Part 1 of Division 2 of said
5 Code, as amended and in force and effect on January 1, 1988
6 applicable to sales taxes are hereby adopted and made a part of
7 this section as though fully set forth herein.

8 (2) Wherever, and to the extent that, in Part 1 of
9 Division 2 of the Revenue and Taxation Code the State of
10 California is named or referred to as the taxing agency, the
11 County of Butte shall be substituted therefor. Nothing in this
12 subdivision shall be deemed to require the substitution of the
13 name of the County of Butte for the word "State" when that word
14 is used as part of the title of the State Controller, State
15 Treasurer, the State Board of Control, the State Board of
16 Equalization, or the name of the State Treasury, or of the
17 Constitution of the State of California; nor shall the name of
18 the County be substituted for that of the State in any section
19 when the result of that substitution would require action to be
20 taken by or against the County or any agency thereof, rather than
21 by or against the State Board of Equalization, in performing the
22 functions incident to the administration or operation of this
23 ordinance; and neither shall the substitution be deemed to have
24 been made in those sections, including, but not necessarily
25 limited to, sections referring to the exterior boundaries of the
26 State of California, where the result of the substitution would
27 be to provide an exemption from this tax with respect to certain
28 gross receipts which would not otherwise be exempt from this tax

1 while those gross receipts remain subject to tax by the State
2 under the provisions of Part 1 of Division 2 of the Revenue and
3 Taxation Code; nor to impose this tax with respect to certain
4 gross receipts which would not be subject to tax by the State
5 under the said provisions of that Code; and, in addition, the
6 name of the County shall not be substituted for that of the State
7 in Sections 6701, 6702, except in the last sentence thereof,
8 6711, 6715, 6737, 6797 and 6828 of the Revenue and Taxation Code
9 as adopted, and the name of the County shall not be substituted
10 for the word "State" in the phrase "retailer engages in business
11 in this State" in Section 6203 nor in the definition of that
12 phrase in Section 6203.

13 (3) If a seller's permit has been issued to a retailer
14 under Section 6067 of the Revenue and Taxation Code, an
15 additional seller's permit shall not be required by reason of
16 this section.

17 (4) There shall be excluded from the gross receipts by
18 which the tax is measured:

19 (i) The amount of any sales or use tax imposed by the
20 State of California upon a retailer or consumer.

21 (ii) Eighty percent (80%) of the gross receipts from the
22 sale of property to operators of common carriers and waterborne
23 vessels to be used or consumed in the operation of such common
24 carriers or waterborne vessels principally outside of this
25 County.

26 Section 5. (a) An excise tax is hereby imposed on the
27 storage, use, or other consumption in the County of Butte of
28 tangible personal property purchased from any retailer on or

1 after January 1, 1988, for storage, use, or other consumption in
2 the County at the rate of one and one-quarter percent (1 1/4%).
3 The sales price shall include delivery charges when such charges
4 are subject to State sales or use tax regardless of the place of
5 which delivery is made.

6 (b) (1) Except as hereinafter provided, and except insofar
7 as they are inconsistent with the provisions of Part 1.5 of
8 Division 2 of the Revenue and Taxation Code of the State of
9 California, all of the provisions of Part 1 of Division 2 of said
10 Code, as amended and in force and effect on January 1, 1988,
11 applicable to use taxes, are hereby adopted and made a part of
12 this section as though fully set forth herein.

13 (2) Wherever, and to the extent that, in Part 1 of
14 Division 2 of the Revenue and Taxation Code the State of
15 California is named or referred to as the taxing agency, the name
16 of this County shall be substituted therefor. Nothing in this
17 subdivision shall be deemed to require the substitution of the
18 name of this County for the word "State" when that word is used
19 as part of the title of the State Controller, State Treasurer,
20 the State Board of Control, the State Board of Equalization, or
21 the name of the State Treasury, or of the Constitution of the
22 State of California; nor shall the name of the County be
23 substituted for that of the State in any section when the result
24 of that substitution would require action to be taken by or
25 against the County or any agency thereof rather than by or
26 against the State Board of Equalization, in performing the
27 functions incident to the administration or operation of this
28 ordinance; and neither shall the substitution be deemed to have

1 been made in those sections, including but not necessarily
2 limited to, sections referring to the exterior boundaries of the
3 State of California, where the result of the substitution would
4 be to provide an exemption from this tax with respect to certain
5 storage, use, or other consumption of tangible personal property
6 which would not otherwise be exempt from this tax while such
7 storage, use, or other consumption remains subject to tax by the
8 State under the provisions of Part 1 of Division 2 of the Revenue
9 and Taxation Code, or to impose this tax with respect to certain
10 storage, use, or other consumption of tangible personal property
11 which would not be subject to tax by the State under the said
12 provisions of that Code; and in addition, the name of the County
13 shall not be substituted for that of the State in Sections 6701,
14 6702, except in the last sentence thereof, 6711, 6715, 6737, 6797
15 and 6828 of the Revenue and Taxation Code as adopted, and the
16 name of the County shall not be substituted for the word "State"
17 in the phrase "retailer engaged in business in this State" in
18 Section 6203 nor in the definition of that phrase in Section
19 6203.

20 (3) There shall be exempt from the tax due under this
21 section:

22 (i) The amount of any sales or use tax imposed by the
23 State of California upon a retailer or consumer.

24 (ii) The storage, use, or other consumption of tangible
25 personal property, the gross receipts from the sale of which has
26 been subject to sales tax under a sales or use tax ordinance
27 enacted in accordance with Part 1.5 of Division 2 of the Revenue
28 and Taxation Code by any other city and county, county or city in

1 any other county in this State.

2 (iii) Provided, however, that the storage or use of
3 tangible personal property in the transportation or transmission
4 of persons, property, or communications or in the generation,
5 transmission or distribution of electricity or in the
6 manufacture, transmission or distribution of gas in intrastate,
7 interstate or foreign commerce by public utilities which are
8 regulated by the Public Utilities Commission of the State of
9 California shall be exempt from eighty percent (80%) of the tax
10 due under this section.

11 Section 6. Any person subject to a sales or use tax or
12 required to collect a use tax under this ordinance shall be
13 entitled to credit against the payment of taxes due under this
14 ordinance the amount of sales and use tax due any city in this
15 county, provided that the city sales and use tax is levied under
16 an ordinance including provisions substantially conforming to the
17 provisions of subdivisions (1) to (8), inclusive, of subsection
18 (h) of Section 7202 of the Revenue and Taxation Code, and other
19 applicable provisions of Part 1.5 of Division 2 of that Code.

20 Section 7. No injunction or writ of mandate or other legal
21 or equitable process shall issue in any suit, action, or
22 proceeding in any court against the State or this County or
23 against any officer of the State or this County to prevent or
24 enjoin the collection under this ordinance or Part 1.5 of
25 Division 2 of the Revenue and Taxation Code of any tax or any
26 amount of tax required to be collected.

27 Section 8. All amendments of the Revenue and Taxation Code
28 enacted subsequent to the effective date of this ordinance which

1 relate to the sales and use tax which are not inconsistent with
2 Part 1.5 of Division 2 of the Revenue and Taxation Code shall
3 automatically become a part of this ordinance.

4 Section 8.5 This ordinance may be made inoperative not less
5 than 60 days, but not earlier than the first day of the calendar
6 quarter, following the County's lack of compliance with Article
7 II (commencing with Section 29530) of Chapter 2 of Division 3 of
8 Title 3 of the Government Code.

9 Section 9. This ordinance shall become inoperative on the
10 first day of the first calendar quarter which commences more than
11 60 days following the date upon which any city within the County
12 increases the rate of its sales or use tax above the rate in
13 effect on the date this ordinance was enacted.

14 Section 10. Any person violating any of the provisions of
15 this ordinance shall be deemed guilty of a misdemeanor, and upon
16 conviction thereof shall be punishable by a fine of not more than
17 \$500.00 or by imprisonment for a period of not more than six
18 months in the county jail or by both such fine and imprisonment.

19 Section 11. If any section, subsection, sentence, clause,
20 phrase or portion of this ordinance, including but not limited to
21 any exemption, is, for any reason held to be invalid or
22 unconstitutional by the decision of any court of competent
23 jurisdiction, such decision shall not affect the validity of the
24 remaining portion of this ordinance. The Board of Supervisors of
25 the County of Butte hereby declares that it would have adopted
26 this ordinance and each section, subsection, sentence, clause,
27 phrase or portion thereof, irrespective of the fact that any one
28 or more sections, subsections, sentences, clauses, phrases or

portions be declared invalid or unconstitutional.

Section 12. This ordinance shall become operative January 1, 1988.

Section 13. This ordinance shall be published once with the names of the members of the Board of Supervisors voting for and against it in the _____, a newspaper published in the County of Butte, State of California.

PASSED AND ADOPTED by the Board of Supervisors of the County of Butte, State of California, on the _____ day of _____, 1987, by the following vote:

AYES:

NOES:

ABSENT:

NOT VOTING:

JANE DOLAN, Chair of the
Butte County Board of Supervisors

ATTEST:

MARTIN J. NICHOLS, Chief Administrative
Officer and Clerk of the Board

By _____

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHICO
AMENDING CHAPTER 3.48 OF THE CHICO MUNICIPAL CODE,
ENTITLED "SALES AND USE TAX", BY CHANGING THE PROVISIONS
OF SECTION 3.48.020 OF CHAPTER 3.48, ENTITLED "RATE", AND
BY ADDING A NEW SECTION 3.48.140 TO CHAPTER 3.48,
TO BE ENTITLED "CREDITS"

BE IT ORDAINED by the City Council of the City of Chico that
Chapter 3.48 of the Chico Municipal Code, entitled "Sales and Use
Tax", be amended as follows:

Sec. 1 That Section 3.48.020 of Chapter 3.48, entitled
"Rate", be and is hereby amended to read as follows:

3.48.020 Rate.

The rate of sales tax and use tax imposed by this
chapter shall be one percent (1%); PROVIDED, HOWEVER, THAT
ON AND AFTER JANUARY 1, 1988, THE RATE OF SALES TAX AND USE
TAX IMPOSED BY THIS CHAPTER SHALL BE NINETY-FIVE HUNDREDTHS
PERCENT (.95%).

Sec. 2 That Section 3.48.140 be added to Chapter 3.48 of
the Chico Municipal Code to be entitled and to read as follows:

3.48.140 Credits.

ANY PERSON SUBJECT TO A SALES OR USE TAX UNDER THE
PROVISIONS OF THIS CHAPTER SHALL BE ENTITLED TO A CREDIT
AGAINST THE PAYMENT OF TAXES DUE UNDER THIS CHAPTER IN THE
AMOUNT OF SALES OR USE TAX DUE TO THE REDEVELOPMENT AGENCY
OF THE CITY OF CHICO PURSUANT TO SECTION 7202.6 OF THE

1 CALIFORNIA REVENUE AND TAXATION CODE, PROVIDED THAT THE
2 SALES AND USE TAX ORDINANCE OF THE REDEVELOPMENT AGENCY OF
3 THE CITY OF CHICO COMPLIES WITH ALL REQUIREMENTS OF SECTION
4 7202.6 OF THE CALIFORNIA REVENUE AND TAXATION CODE AND ANY
5 OTHER APPLICABLE PROVISIONS OF PART 1.5, DIVISION 2, OF THAT
6 CODE.

7 Ordinance No. ____ was adopted by the City Council of the
8 City of Chico at its _____ regular meeting held on the ____
9 day of _____, 1987, by the following vote:

10 AYES:

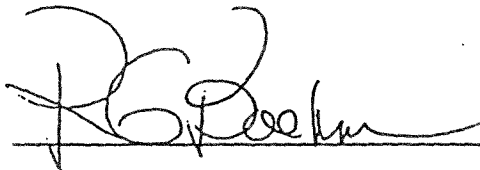
11 NOES:

12 ABSENT:

13
14 ATTEST:

APPROVED AS TO FORM:

15
16
17
18 _____
19 Barbara A. Evans, City Clerk



Robert G. Boehm, City Attorney

20
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23
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27
28
EXHIBIT B

MUNICIPAL AFFAIRS AGREEMENT
(COUNTY OF BUTTE/BUTTE COUNTY MOSQUITO ABATEMENT DISTRICT
CITY OF CHICO/CHICO REDEVELOPMENT AGENCY)

EXHIBIT "C"

SETTING FORTH PROPERTY ANNEXED TO THE CITY OF CHICO
BETWEEN JANUARY 1, 1978 AND DECEMBER 31, 1986

<u>ANNEXATION DISTRICT</u>	<u>DATE ADOPTED BY CITY</u>
Manzanita Avenue - Annex Dist #4	01-17-78
W. 11th Avenue - Annex Dist #2	02-21-78
Mangrove Avenue - Annex Dist #14	02-21-78
Chico Municipal Airport - Annex Dist #1	03-07-78
E. 8th Avenue - Annex Dist #1	04-18-78
Ellene Avenue - Annex Dist #3	04-18-78
Manzanita Court - Annex Dist #2	04-18-78
Mariposa Avenue - Annex Dist #7	05-16-78
Larch Street - Annex Dist #4	07-11-78
Manzanita Avenue - Annex Dist #5	09-05-78
E. Park Avenue - Annex Dist #1	09-05-78
Sunset Avenue - Annex Dist #4	11-14-78
Morrow Lane - Annex Dist #1	01-09-79
Skyway - Annex Dist #5	01-09-79
Nord Avenue - Annex Dist #5	01-09-79
W. 8th Avenue - Annex Dist #2	01-09-79
Vallombrosa Avenue - Annex Dist #10	01-09-79
Downing Avenue - Annex Dist #2	03-02-79
N. Cherry Street - Annex Dist #5	04-17-79
E. 20th Street - Annex Dist #7	05-08-79
Nord Avenue - Annex Dist #6	06-19-79
E. 19th Street - Annex Dist #2	06-19-79
Manzanita Avenue - Annex Dist #6	06-19-79
North Cherry Street - Annex Dist #6	08-14-79
Esplanade - Annex Dist #11	09-04-79
East Park Avenue - Annex Dist #2	09-18-79
Columbus Avenue - Annex Dist #2	09-18-79
Verbena Avenue - Annex Dist #2	10-16-79
Bryant Avenue - Annex Dist #6	10-16-79
East First Avenue - Annex Dist #15	10-16-79
Chico Municipal Airport - Annex Dist #2	11-10-79
Morrow Lane - Annex Dist #2	12-18-79
Sherman Avenue - Annex Dist #4	12-18-79
Meyers Street - Annex Dist #1	01-15-80
East Avenue - Annex Dist #4	03-18-80
Cohasset Road - Annex Dist #14	06-17-80
Manzanita Avenue - Annex Dist #7	07-01-80
East Park Avenue - Annex Dist #3	09-16-80
W. 11th Street - Annex Dist #1	09-16-80

MUNICIPAL AFFAIRS AGREEMENT
(COUNTY OF BUTTE/BUTTE COUNTY MOSQUITO ABATEMENT DISTRICT
CITY OF CHICO/CHICO REDEVELOPMENT AGENCY)

EXHIBIT "C"

SETTING FORTH PROPERTY ANNEXED TO THE CITY OF CHICO
BETWEEN JANUARY 1, 1978 AND DECEMBER 31, 1986

<u>ANNEXATION DISTRICT</u>	<u>DATE ADOPTED BY CITY</u>
W. 2nd Avenue - Annex Dist #7	07-01-86
W. 8th Avenue - Annex Dist #3	08-05-86
Humboldt Road - Annex Dist #8	08-05-86
Comanche Court - Annex Dist #1	08-05-86
Bidwell Avenue - Annex Dist #2	09-02-86
Manzanita Avenue - Annex Dist #10	09-02-86
Mangrove Avenue - Annex Dist #16	09-02-86
Mangrove Avenue - Annex Dist #18	10-28-86
W. 2nd Avenue - Annex Dist #8	10-28-86
North Cedar Street - Annex Dist #6	10-28-86
Mangrove Avenue - Annex Dist #17	11-04-86
California Park - Annex Dist #1	12-02-86

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3
4
5 AMENDED MASTER PROPERTY TAX TRANSFER
6 AGREEMENT (COUNTY OF BUTTE/CITY OF CHICO)
7

8 THIS AGREEMENT, is made and executed in duplicate by and
9 between the County of Butte, a political subdivision of the State
10 of California (hereinafter referred to as "County"), and the City
11 of Chico, a municipal corporation of the State of California
12 (hereinafter referred to as "City").

13 W I T N E S S E T H :

14 WHEREAS, on June 6, 1978, the voters of the State of Cali-
15 fornia amended the California Constitution by adding Article
16 XIII A thereto which limited the total amount of property taxes
17 which could be levied on property by local taxing agencies having
18 such property within their territorial jurisdiction to one
19 percent (1%) of full cash value; and

20 WHEREAS, following such constitutional amendment, the
21 California Legislature added Section 99 to the California Revenue
22 and Taxation Code which requires a city seeking to annex property
23 to its incorporated territory and a county affected by such
24 annexation to agree upon an exchange of property taxes which are
25 derived from such property and available to the county and city
26 following annexation of the property to the incorporated territo-
27 ry of the city; and
28 -----

1 WHEREAS, in January, 1980, County and City, in contemplation
2 of the annexation of property located in the unincorporated
3 territory of County to the incorporated territory of City, and in
4 accordance with the provisions of Section 99(d) of the California
5 Revenue and Taxation Code, executed a master property tax trans-
6 fer agreement entitled "Agreement Between Butte County and its
7 Cities Regarding the Negotiated Exchange of Property Tax Revenues
8 Relating to Jurisdictional Changes (in Accordance with Revenue
9 and Taxation Code Section 99 Added by Chapter 282 Statutes of
10 1979 and Amended by Chapter 1161 of the Statutes of 1979) (Agree-
11 ment Amended January 31, 1980)" which provided for the exchange
12 of property tax revenues between County and City for all annexa-
13 tions of property located in the unincorporated territory of
14 County to the incorporated territory of City, save and except
15 those annexations which would also materially affect the non-
16 property tax revenues received by County; and

17 WHEREAS, on or about April 1, 1982, City made a request to
18 County to renegotiate the property tax exchange rate between
19 County and City established by such agreement as expressly
20 provided for in Section 3 of the agreement; and

21 WHEREAS, County and City, after protracted negotiations have
22 reached an understanding as to a new rate of exchange of property
23 tax revenues to be made pursuant to Section 99 of the California
24 Revenue and Taxation Code; and

25 WHEREAS, County and City now desire to amend the Master
26 Property Tax Transfer Agreement heretofore executed by them
27 pursuant to Section 99(d) of the California Revenue and Taxation
28 Code to set forth such new rate of exchange.

1 NOW, THEREFORE, County and City agree as follows:

- 2 1. County and City agree that effective on the date of
3 this Agreement, all property tax revenues available to
4 County and City from properties annexed to the incorporated
5 territory of City between January 1, 1978, and December 31,
6 1986, as set forth in Exhibit "A" attached hereto and by
7 this reference incorporated herein, as well as all property
8 tax revenues available to County and City from properties
9 annexed to the incorporated territory of City subsequent to
10 January 1, 1987, shall be divided between County and City as
11 follows:

12 County Share - 55%

13 City Share - 45%

- 14 2. County and City also agree that between the effective
15 date of this Agreement and the end of the first fiscal year
16 in which five percent (5%) of the "total sales and use tax
17 revenues received by both County and City" (as hereinafter
18 defined in this Section) during such year from all proper-
19 ties within the incorporated territory of City is equal to
20 or greater than one-half of the total sales and use tax
21 revenues received by both County and City during such year
22 from properties within the annexation district designated by
23 the Butte County Local Agency Formation Commission as
24 Pillsbury Road Annexation District No. 4, County will also
25 be entitled to the following additional portion of property
26 tax revenues available to County and City from properties
27 annexed to the incorporated territory of City between
28 January 1, 1978, and December 31, 1986, as well as all

1 properties annexed to the incorporated territory of City
2 subsequent to January 1, 1987, the same to be deducted from
3 and paid over to County from City's forty-five percent (45%)
4 share of such property taxes hereinbefore provided for in
5 Section 1 of this Agreement:

6 (A) Effective on January 1, 1988, and continuing thereafter
7 until June 30, 1988, County shall be entitled to an
8 additional portion of such property tax revenues equal
9 to:

10 (i) One hundred percent (100%) of the total sales and
11 use tax revenues received by both County and City
12 between January 1, 1988, and June 30, 1988, from
13 all properties within Pillsbury Road Annexation
14 District No. 4; minus

15 (ii) Five percent (5%) of the total sales and use
16 tax revenues received by both County and City
17 between January 1, 1988, and June 30, 1988, from
18 all properties within the incorporated territory
19 of City.

20 (B) Effective July 1, 1988, and continuing each year
21 thereafter until the end of the first fiscal year in
22 which five percent (5%) of the total sales and use tax
23 revenues received by both County and City during such
24 year from all properties within the incorporated
25 territory of City is equal to or greater than one-half
26 of the total sales and use tax revenues received by
27 both County and City from all properties within
28 Pillsbury Road Annexation District No. 4, County shall

1 be entitled to an additional portion of such property
2 tax revenues equal to:

- 3 (i) One-half of the total sales and use tax revenues
4 received by both County and City during the year
5 from all properties within Pillsbury Road Annexa-
6 tion District No. 4; minus
7 (ii) Five percent (5%) of the total sales and use tax
8 revenues received by both County and City during
9 the year from all properties within the incorpo-
10 rated territory of City.

11 For purposes of this Section, the term "total sales and
12 use tax revenues received by both County and City"
13 shall mean all sales and use tax revenues which have
14 been received by the State Board of Equalization from
15 the local sales and use taxes levied by County and City
16 within the incorporated territory of City pursuant to
17 the provisions of the Bradley Burns Uniform Local Sales
18 and Use Tax Law in effect on the date of this Agreement
19 and which actually have been distributed by the State
20 Board of Equalization to County and City, save and
21 except for any portion of such local sales and use
22 taxes levied by County in order to fulfill its obliga-
23 tions under the provisions of Article 11, Chapter 2,
24 Division 3, Title 3, of the California Government Code
25 in effect on the date of this Agreement (commencing
26 with Section 29530) relating to the local transporta-
27 tion fund. Moreover, for purposes of this Agreement,
28 the term "fiscal year" shall mean any year commencing

1 on July 1st and ending on June 30th.

2 3. County and City further agree that all of the exchanges
3 of property taxes required by this Section shall be made by
4 the County Auditor. In carrying out the provisions of
5 Section 2 of this Agreement, the County Auditor shall make
6 the exchanges required therein from that part of City's
7 share of the property taxes referred to therein which is
8 paid by the County Auditor to City subsequent to April 10 of
9 the fiscal year or portion thereof for which such exchange
10 is being made. Moreover, in carrying out the provisions of
11 Section 2 of this Agreement, the County Auditor shall deter-
12 mine the amount of exchange required therein from the total
13 estimated sales and use taxes which will be received by both
14 County and City from all properties within the incorporated
15 territory of City as well as all properties within Pillsbury
16 Road Annexation District No. 4 for the fiscal year or any
17 portion thereof in which such exchange is being made, as
18 agreed upon by the County Auditor and the City Finance
19 Officer, or if they are unable to agree, as determined by an
20 independent consultant selected by the Chief Administrative
21 Officer of County and the City Manager of City, all costs of
22 which will be equally shared by County and City; provided,
23 however, that as soon as possible following the end of each
24 such fiscal year, the County Auditor, after consulting with
25 the City Finance Officer, shall reconcile the estimated
26 amount of such sales and use taxes with the actual amount of
27 such sales and use taxes and make any adjustments in the
28 deductions and payments required by Section 2 of this

1 Agreement which are necessary to account therefor, shall
2 provide a report of such reconciliation and adjustments to
3 the City Finance Officer, and shall either remit to or bill
4 City for any amounts required by such reconciliation and
5 adjustment; and, provided further, that if the County
6 Auditor, after undertaking such reconciliation and making
7 such adjustment, bills City for any amounts required by the
8 reconciliation and adjustment, then City shall pay to County
9 the amount set forth in such bill within 45 days of the
10 receipt of same.

11 4. This Agreement and the exchanges of property taxes
12 provided for herein shall not apply to any annexation
13 application or petition which proposes the annexation of a
14 substantial part of the unincorporated portion of the Chico
15 Urban Area to the incorporated territory of City. In the
16 case of such an annexation, County and City shall separately
17 agree on a division of the property tax revenues available
18 to County and City from such an annexation in accordance
19 with the provisions of Section 99(b) of the California
20 Revenue and Taxation Code.

21 For purposes of this section, the term "Chico Urban
22 Area" shall mean the sphere of influence for the City of
23 Chico as now or hereafter adopted by the Butte County Local
24 Agency Formation Commission and the term "substantial part
25 of the unincorporated territory of the Chico Urban Area"
26 shall mean any part of the unincorporated portion of the
27 Chico Urban Area containing ten percent (10%) or more of the
28 total population of both the unincorporated and incorporated

portions of the Chico Urban Area, the same to be determined on the basis of the population per household for the City of Chico as established by the State Department of Finance, and the number of households within the Chico Urban Area and the area proposed to be annexed as jointly agreed upon by the County and City Planning Directors, or, in the event the County and City Planning Directors are unable to agree, by an independent consultant selected by the Chief Administrative Officer of County and the City Manager of City, all costs of which shall be equally shared by County and City.

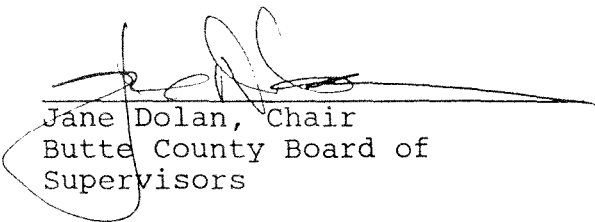
5. This Agreement shall completely amend and fully supersede all or any portion of the agreement entitled "Agreement Between Butte County and its Cities Regarding the Negotiated Exchange of Property Tax Revenues Relating to Jurisdictional Changes (in Accordance with Revenue and Taxation Code Section 99 Added by Chapter 282 Statutes of 1979 and Amended by Chapter 1161 of the Statutes of 1979) (Agreement Amended January 31, 1980)" which relates in any manner to an exchange of property taxes between the County of Butte and the City of Chico incident to the annexation of property located in County to the incorporated territory of City.

IN WITNESS WHEREOF, the parties have executed this Agreement in the County of Butte, State of California, on the dates set forth below.

COUNTY OF BUTTE

NOV 4 1987

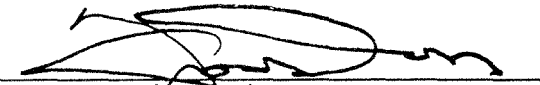
Date


Jane Dolan, Chair
Butte County Board of
Supervisors


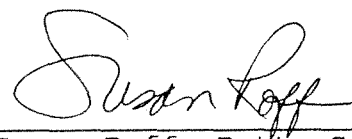
CITY OF CHICO

Date

11/4/87


Fred Davis, City Manager
City of Chico

APPROVED AS TO FORM:


Robert G. Boehm, City Attorney
City of Chico
Susan Roff, Butte County
Counsel

Authorized Pursuant to City of Chico
Joint City Council/Redevelopment Agency
Resolution Nos. 49 87-88/RDA 5-87
Adopted November 3, 1987

Authorized Pursuant to Butte County
Board of Supervisors Resolution #87-267
approved November 3, 1987

AMENDED MASTER PROPERTY TAX TRANSFER AGREEMENT
(COUNTY OF BUTTE/CITY OF CHICO)

EXHIBIT "A"

SETTING FORTH PROPERTY ANNEXED TO THE CITY OF CHICO
BETWEEN JANUARY 1, 1978 AND DECEMBER 31, 1986

<u>ANNEXATION DISTRICT</u>	<u>DATE ADOPTED BY CITY</u>
Manzanita Avenue - Annex Dist #4	01-17-78
W. 11th Avenue - Annex Dist #2	02-21-78
Mangrove Avenue - Annex Dist #14	02-21-78
Chico Municipal Airport - Annex Dist #1	03-07-78
E. 8th Avenue - Annex Dist #1	04-18-78
Ellene Avenue - Annex Dist #3	04-18-78
Manzanita Court - Annex Dist #2	04-18-78
Mariposa Avenue - Annex Dist #7	05-16-78
Larch Street - Annex Dist #4	07-11-78
Manzanita Avenue - Annex Dist #5	09-05-78
E. Park Avenue - Annex Dist #1	09-05-78
Sunset Avenue - Annex Dist #4	11-14-78
Morrow Lane - Annex Dist #1	01-09-79
Skyway - Annex Dist #5	01-09-79
Nord Avenue - Annex Dist #5	01-09-79
W. 8th Avenue - Annex Dist #2	01-09-79
Vallombrosa Avenue - Annex Dist #10	01-09-79
Downing Avenue - Annex Dist #2	03-02-79
N. Cherry Street - Annex Dist #5	04-17-79
E. 20th Street - Annex Dist #7	05-08-79
Nord Avenue - Annex Dist #6	06-19-79
E. 19th Street - Annex Dist #2	06-19-79
Manzanita Avenue - Annex Dist #6	06-19-79
North Cherry Street - Annex Dist #6	08-14-79
Esplanade - Annex Dist #11	09-04-79
East Park Avenue - Annex Dist #2	09-18-79
Columbus Avenue - Annex Dist #2	09-18-79
Verbena Avenue - Annex Dist #2	10-16-79
Bryant Avenue - Annex Dist #6	10-16-79
East First Avenue - Annex Dist #15	10-16-79
Chico Municipal Airport - Annex Dist #2	11-10-79
Morrow Lane - Annex Dist #2	12-18-79
Sherman Avenue - Annex Dist #4	12-18-79
Meyers Street - Annex Dist #1	01-15-80
East Avenue - Annex Dist #4	03-18-80
Cohasset Road - Annex Dist #14	06-17-80
Manzanita Avenue - Annex Dist #7	07-01-80
East Park Avenue - Annex Dist #3	09-16-80
W. 11th Street - Annex Dist #1	09-16-80

AMENDED MASTER PROPERTY TAX TRANSFER AGREEMENT
(COUNTY OF BUTTE/CITY OF CHICO)

EXHIBIT "A"

SETTING FORTH PROPERTY ANNEXED TO THE CITY OF CHICO
BETWEEN JANUARY 1, 1978 AND DECEMBER 31, 1986

<u>ANNEXATION DISTRICT</u>	<u>DATE ADOPTED BY CITY</u>
Hwy 32 @ Fir Street - Annex Dist #1	09-16-80
Arbutus Avenue - Annex Dist #12	10-07-80
1980 City-owned property - Annex Dist #1	10-07-80
East First Avenue - Annex Dist #16	01-06-81
Boucher Street - Annex Dist #2	01-27-81
Manzanita Avenue - Annex Dist #8	02-17-81
Cohasset Road - Annex Dist #17	04-21-81
Southeast Chico Sewer Assessment Annexation District	04-21-81
Cohasset Road - Annex Dist #15	08-04-81
Cohasset Road - Annex Dist #18	08-03-82
Northeast Chico Sewer Assessment Annexation District	08-03-82
City-owned property - Annex Dist #2	08-08-82
Burnap Avenue - Annex Dist #1	11-18-82
West First Avenue - Annex Dist #4	11-18-82
Columbus Avenue - Annex Dist #3	02-01-83
W. 4th Avenue - Annex Dist #3	02-01-83
Ceanothus Avenue - Annex Dist #5	02-01-83
Cohasset Road - Annex Dist #19	04-19-83
Burnap Avenue - Annex Dist #2	04-19-83
Columbus Avenue - Annex Dist #4	08-02-83
White Avenue - Annex Dist #1	10-11-83
The Esplanade - Annex Dist #12	10-11-83
Fair Street - Annex Dist #2	12-06-83
City-owned property - Annex Dist #3	12-06-83
North Cedar Street - Annex Dist #2	12-20-83
W. 2nd Street - Annex Dist #4	12-20-83
Whitman Avenue - Annex Dist #1	02-07-84
Cohasset Road - Annex Dist #20	03-06-84
Park Avenue - Annex Dist #12	03-06-84
West First Avenue - Annex Dist #5	03-06-84
Columbus Avenue - Annex Dist #5	03-06-84
Columbus Avenue - Annex Dist #6	03-06-84
E. 9th Street - Annex Dist #4	04-03-84
W. 2nd Avenue - Annex Dist #5	05-15-84
W. 4th Avenue - Annex Dist #5	05-15-84
White Avenue - Annex Dist #2	05-15-84
Columbus Avenue - Annex Dist #7	05-15-84

AMENDED MASTER PROPERTY TAX TRANSFER AGREEMENT
(COUNTY OF BUTTE/CITY OF CHICO)

EXHIBIT "A"

SETTING FORTH PROPERTY ANNEXED TO THE CITY OF CHICO
BETWEEN JANUARY 1, 1978 AND DECEMBER 31, 1986

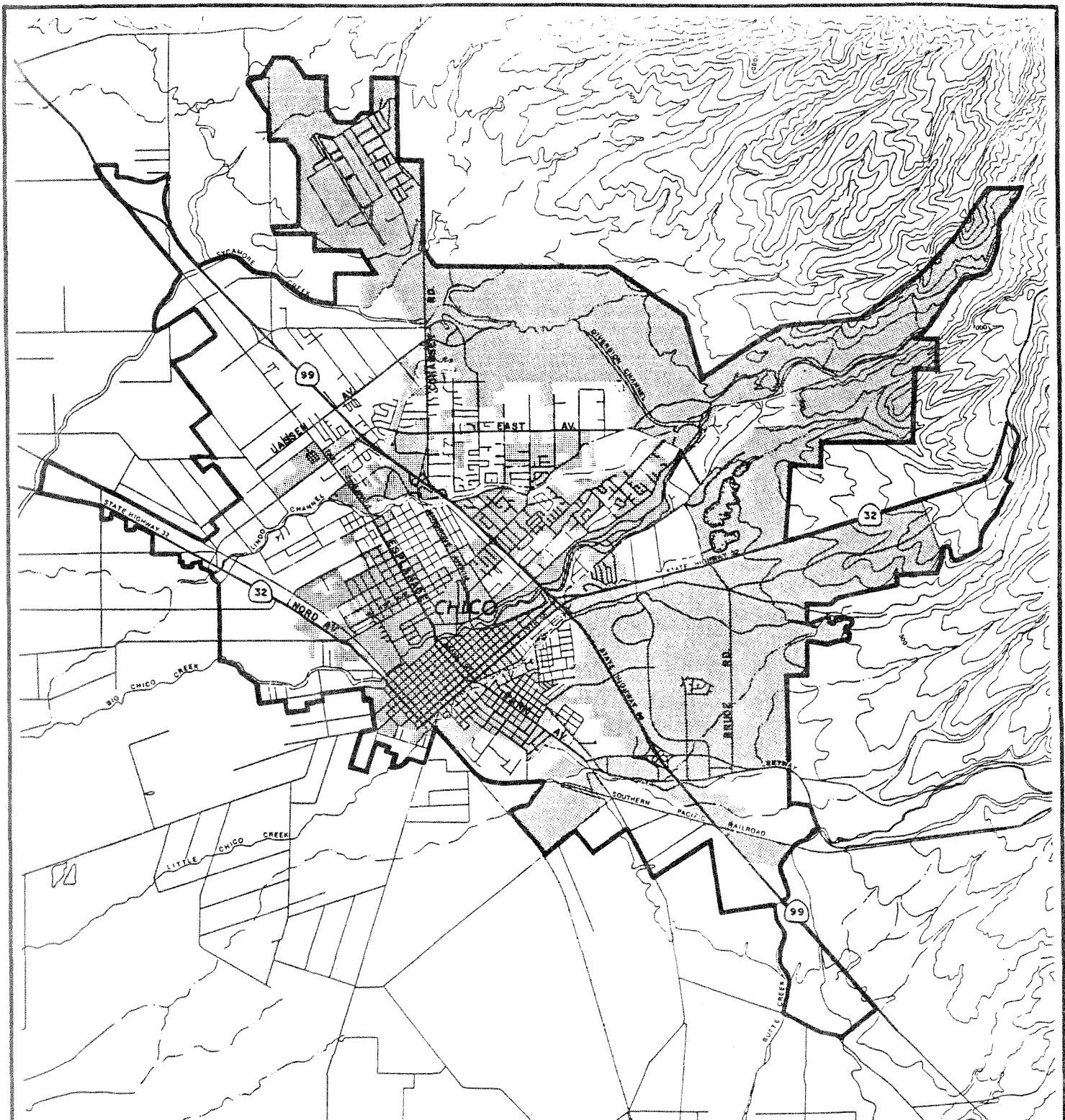
<u>ANNEXATION DISTRICT</u>	<u>DATE ADOPTED BY CITY</u>
Madrone Avenue - Annex Dist #7	05-15-84
Cohasset Road - Annex Dist #22	06-19-84
Humboldt Road - Annex Dist #6	06-19-84
W. Sacramento Avenue - Annex Dist #14	06-19-84
W. Sacramento Avenue - Annex Dist #15	06-19-84
The Esplanade - Annex Dist #13	06-19-84
Cohasset Road - Annex Dist #21	09-18-84
West First Avenue - Annex Dist #6	10-16-84
Rio Lindo Avenue - Annex Dist #8	10-16-84
Elm Street - Annex Dist #2	10-16-84
West First Avenue - Annex Dist #7	10-16-84
W. Sacramento Avenue - Annex Dist #16	12-18-84
W. Sacramento Avenue - Annex Dist #18	04-02-85
Nord Avenue - Annex Dist #8	05-21-85
W. 4th Avenue - Annex Dist #4	05-21-85
E. 7th Avenue - Annex Dist #2	06-18-85
E. 8th Street - Annex Dist #13	06-18-85
E. 20th Street - Annex Dist #8	06-18-85
North Cedar Street - Annex Dist #3	06-18-85
Sheridan Avenue - Annex Dist #4	06-18-85
The Esplanade - Annex Dist #14	07-23-85
W. Sacramento Avenue - Annex Dist #17	08-06-85
W. Sacramento Avenue - Annex Dist #19	10-15-85
North Cedar Street - Annex Dist #5	10-15-85
Humboldt Road - Annex Dist #7	10-15-85
Mangrove Avenue - Annex Dist #15	12-17-85
W. 2nd Avenue - Annex Dist #6	12-03-85
Nord Avenue - Annex Dist #9	02-18-86
Floral Avenue - Annex Dist #9	02-18-86
W. Sacramento Avenue - Annex Dist #20	03-18-86
Nord Avenue - Annex Dist #10	03-18-86
North Cedar Street - Annex Dist #4	03-18-86
Cohasset Road - Annex Dist #23	04-01-86
Hooker Oak Avenue - Annex Dist #13	04-15-86
Lupin Avenue - Annex Dist #1	04-15-86
Lassen Avenue - Annex Dist #1	04-15-86
Mountain View Avenue - Annex Dist #1	06-03-86
Longfellow Avenue - Annex Dist #4	06-03-86
North Avenue - Annex Dist #1	06-03-86
Filbert Avenue - Annex Dist #7	06-03-86



AMENDED MASTER PROPERTY TAX TRANSFER AGREEMENT
(COUNTY OF BUTTE/CITY OF CHICO)

EXHIBIT "A"

SETTING FORTH PROPERTY ANNEXED TO THE CITY OF CHICO
BETWEEN JANUARY 1, 1978 AND DECEMBER 31, 1986

<u>ANNEXATION DISTRICT</u>	<u>DATE ADOPTED BY CITY</u>
W. 2nd Avenue - Annex Dist #7	07-01-86
W. 8th Avenue - Annex Dist #3	08-05-86
Humboldt Road - Annex Dist #8	08-05-86
Comanche Court - Annex Dist #1	08-05-86
Bidwell Avenue - Annex Dist #2	09-02-86
Manzanita Avenue - Annex Dist #10	09-02-86
Mangrove Avenue - Annex Dist #16	09-02-86
Mangrove Avenue - Annex Dist #18	10-28-86
W. 2nd Avenue - Annex Dist #8	10-28-86
North Cedar Street - Annex Dist #6	10-28-86
Mangrove Avenue - Annex Dist #17	11-04-86
California Park - Annex Dist #1	12-02-86



-  Chico City Limits
 City of Chico Sphere of Influence



CITY OF CHICO

PLANNING OFFICE

CHICO CITY LIMITS AND
SPHERE OF INFLUENCE

DRAWN BY RA CHECKED BY _____
 DATE 03/20/89 SCALE 1"=1 mile
 APPROVED BY *C. J. Seltzer*
PLANNING DIRECTOR



SUSAN ROFF MINASIAN
COUNTY COUNSEL

A-158
OFFICE OF COUNTY COUNSEL
COUNTY OF BUTTE

25 COUNTY CENTER DRIVE / OROVILLE, CALIFORNIA 95965-3380 / (916) 538-7621 / FAX (916) 538-7120

NEIL H. McCABE
CHIEF DEPUTY COUNTY COUNSEL

DAVID M. McCLAIN
CHIEF DEPUTY COUNTY COUNSEL

TESTIMONY BEFORE SENATE LOCAL GOVERNMENT COMMITTEE
ON LAND USE AND LOCAL REVENUE SHARING

November 17, 1989
San Jose, California

Susan Roff Minasian
Butte County Counsel

I. The Controversy:

The City of Chico operates a regional water pollution control plant and has a policy which requires all property which hooks up to the plant and the City's collection system to be annexed to the City. The property in question, the North Valley Mall, was the major shopping center in the Chico Urban Area at the time of the annexation. It had problems with its septic system and needed to hook up to the City's collection system and the pollution plant. The Mall, therefore, requested annexation to the City of Chico.

Because the North Valley Mall generated approximately \$600,000 a year in sales tax and \$45,000 a year in property tax, the annexation was fought bitterly by the County. Lawsuits were filed by the County to stop the annexation. The County asked the court to find that the California Environmental Quality Act required an analysis of economic impacts prior to a decision on annexation. This case was lost at the Superior Court level. Other lawsuits challenged the Central Chico Redevelopment Agency's findings of blight. These lawsuits were also lost by the County at the Superior Court level. However, they had the effect of delaying the annexation and creating a forum for negotiation of sales tax.

In order to understand the impact of losing \$600,000 a year in sales tax and up to \$45,000 a year in property tax, Butte County's fiscal condition must be examined. This year the County closed its libraries because the County did not have the approximately \$250,000 in its budget to spend on library services.

The following is a list of important figures related to the North Valley Mall Annexation. This will help explain the importance of the issue to Butte County:

1. Sales Tax Generated by North Valley Mall,
per annum - \$600,000
- Property Tax Generated by North Valley Mall,
per annum - \$ 45,000
2. Property Tax Split agreed upon in Uniform
Property Tax Agreement prior to North Valley
Mall Annexation - 60% County
40% City
3. County Budget, 89-90 Fiscal Year - \$130,000,000
4. Discretionary Money within County Budget - \$ 27,000,000
5. Percentage of Discretionary Money to total
County Budget - 20%
(approximately)
6. Relationship between North Valley Mall Sales tax
and Property Tax to County Discretionary Dollars - 3%
7. 5% of City Sales Tax, fiscal year 88-89 - \$ 320,000
8. Projected Growth of 5% of City's sales tax
assuming current growth pattern - 17% per year
9. Number of years it will take before 5% of City's
Sales Tax is equivalent to the total Sales Tax
and Property Tax lost due to the annexation of
the North Valley Mall - 5+ years

II. The Agreement.

After much negotiation an agreement was struck between the County and the City which resolved these controversies. The parties to the agreement were Butte County, the City of Chico, the Butte County Mosquito Abatement District and the Chico Redevelopment Agency. The subjects covered in the agreement are as follows: fiscal consequences of future annexations to the City of Chico, guidelines for new redevelopment projects within

the unincorporated area within the City Sphere of Influence, the delivery of municipal services by the City of Chico, within the City limits and within the unincorporated area within the Sphere of Influence.

A major aspect of the agreement and that part which caused the most heated discussions during negotiations was the sharing of sales taxes. This was accomplished by an adjustment to the sales tax rates, as opposed to sharing of sales tax revenues. Both the City and the County agreed to amend their sales tax ordinances to adjust their rates so that the City's rate changed from 1 cent to \$.95. This effectively gave the County and additional 5% of the City's sales tax rate.

Both the City Attorney and I concluded that the sharing of sales tax revenues by means of adjustments of the rates did not trigger the requirement of an election. However, we cautiously added two backup schemes if the sales tax rate adjustment provisions were found to be invalid or inoperative.

The first backup provision modified the property tax exchange agreed upon pursuant to Revenue Taxation Code Section 99.4, so that the County would receive additional property tax revenue from the City equivalent to the sales tax revenues lost because the County could no longer receive 5% of the City's sales tax.

The second backup scheme involved the City's agreement to pay out of general funds a sum equal to 5% of the City's sales tax. These schemes were the subject of much discussion with attorneys for the State Board of Equalization, the agency who

administers and collects the California State Sales and Use Taxes. Their opinion was that the agreement was legally enforceable.

In addition to an agreement to modify the sales tax rates, a new Uniform Master Property Tax Agreement was negotiated and made a part of the Municipal Affairs Agreement. Under this scheme, the County received 55% of all property taxes generated by annexation, and the City 45%. This was to include all property annexed to the City from 1978 on. Previous to this agreement, the County and City had a 60% County, 40% City split in property taxes.

In addition, a mechanism was agreed upon to guarantee the County one-half (1/2) of the sales tax generated by the North Valley Mall until such time as 5% of the City wide sales tax was equivalent to one-half (1/2) of the North Valley Mall generated sales tax.

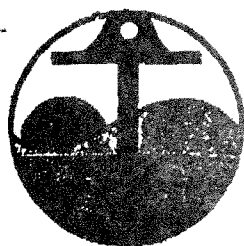
The agreement also looked to the future in regard to municipal services in the unincorporated portion of the Chico Urban Area. In it the City and County stated they intended that in the future the City would assume responsibility for providing animal control, parks, planning and building inspection, law enforcement, sanitary sewer, storm drainage, street lighting, street maintenance, tree maintenance and public transportation to the residents of the unincorporated portion of the Chico Urban Area. It also allowed for reimbursement of costs incurred by the City in providing those services. In addition, it looked towards an automatic aid agreement between the City and the County

regarding fire suppression services.

The agreement provided that with regard to future annexations, the division of sales and property tax revenues agreed upon would be applicable unless the annexation was an "area wide annexation" which was defined as annexation containing 10% or more of the total population of both the unincorporated and the incorporated portion of the Chico Urban Area, or at present, approximately 7,000 in population.

The agreement also resolved litigation about existing redevelopment project areas. It set a pass through rate of 70% to the County for all tax increment revenues received from the central Chico redevelopment project area. It looked towards a proposed Joint Chico Urban Area Redevelopment Project Area and set parameters for the City and the County to cooperate on the formation of a Joint Redevelopment Project.

The Municipal Affairs Agreement between the County of Butte and the City of Chico which was entered into in November of 1987 and allowed the annexation of the North Valley Mall Shopping Center to proceed. Had legislation been in effect which allowed the negotiation of sales tax to occur as a matter of right, such as presently exists as to property taxes pursuant to Revenue and Taxation Code Section 99.4, much of the litigation and delay surrounding the annexation could have been avoided.



**CITY OF
PITTSBURG
CA**

CIVIC CENTER • P.O. BOX 1518 • PITTSBURG, CALIFORNIA 94565

COMMENTS BEFORE THE SENATE LOCAL GOVERNMENT COMMITTEE
ON SENATE BILL 986

My name is Ron Currie. I appreciate the opportunity to speak before the Senate Local Government Committee and the Assembly Local Government Committee and other guests to express the concerns we in the City of Pittsburg have with the proposed legislation.

My comments today while addressing the tenets of this bill will be more generic because we think that the issues involved are much broader than those encompassed by this proposed legislation. The committee staff has done an excellent job in its background report summarizing the key problems. Our comments are made within the frame of reference of this report.

First of all, we would like to address the issue of tax agreements with reference to annexation. You have heard and will hear pros and cons regarding the equity or inequity of this process. Taken in the abstract, obviously this is indeed not a negotiation process whereby each party has equal ability to drive a good result, but rather one where one party, the county, holds the whip hand. The end result is pre-ordained i.e., the county will prevail eventually.

There is an axiom in law that in any valid agreement, there must be a meeting of the minds. Beyond that, any worthwhile agreement must be reasonable for both parties. This is hardly possible when one party is recognized as the controlling factor

In Contra Costa, the county has demanded tax revenues other than property taxes as the price for agreement so that LAFCO could complete the annexation process. This is clearly completely illegal according to a legislative counsel's opinion of November 1987 (attached.)

This has created a climate of frustration, antagonism and ill will between cities and counties at a time when the utmost cooperation is required to solve mutual problems. Resolution of this inequitable process is imperative before meaningful discussions on sales tax and property tax transfer, or other solutions begin. Some possible procedures have been advanced. We offer for the record and your consideration one supported by the Contra Costa Mayor's Conference, consisting of 18 cities.

Generally, the proposal limits discussion to property taxes and calls for both parties to accept the decision of a superior court judge if agreement has not been reached. The court would hear the best last offer from each agency and the decision would be rendered upon which last best offer appears most reasonable based on the value of services transferred between the local agencies. The judge would have no discretion to consider any other possibility. The Mayor's Conference felt this would pressure both parties to come up with offers that were reasonable and could be sustained.

The staff report discusses the fiscalization of land use and the resulting competition for land uses generating tax revenues, especially sales taxes. We offer you a different view, one which clearly indicates that tax shifting arrangements will not resolve the basic problems underlying the reason for this hearing.

Our city has been a comparatively low income, blue collar community within an affluent county. Through the use of the redevelopment process and the issuance of almost \$300 Million in residential mortgage revenue bonds, we are today a much improved city physically, economically, socially and still improving. Our city has carried the major share of affordable housing in the county.

As a result of a large increase in population with disposable income our sales tax revenue has doubled over a seven year period. However, we are still \$30 per capita below the state average and our per capita sales tax ranks as one of the lowest in the county.

This poses rather interesting questions. We are attempting to negotiate with the county on annexation of a large, developed existing industrial area and 2 parcels of undeveloped land.

There are no sales taxes involved in the industrial annexation, as the large industries are Dow Chemical, USS POSCO, etc., obviously wholesale suppliers.

The other two parcels will be developed residentially under our general plan with no sales tax to speak of other than a small neighborhood shopping center.

Since our sales tax is still well below normal levels, how can we justify giving sales tax revenues to the county? In the case of the annexation, there will be little or no sales taxes. Obviously, residential development is not a winner in terms of revenues received versus expenses for services, although in the long run, in our case, a growing population will be beneficial to our social and economic goals.

It would be ludicrous to return property taxes to the county which has to this date insisted on a total pass through of its current property tax revenues. Given the existing tax agreement situation, obviously, our city has no real alternative but to accept an agreement which would be clearly financially detrimental.

The county states its need for continuing and additional revenues to fund its mandated services. We cannot quarrel with this; however, the solution to the county's fiscal problems should not come at the expense of our city or other cities. We have our own financial problem and in our case, we have had very real and serious financial problems for a much longer period than experienced by the county.

While we are engaged in this acrimonious battle, both the city and county have infrastructure problems, crime, drug and other problems. A large (16,000 population) unincorporated area is adjacent to our city. The county offers urban services via way of special districts. The argument of who should provide urban services is another question better left for future discussions. The point here is both the county and city have inadequate resources to provide law enforcement and other services in the most effective manner.

Your staff report very nicely points out the zero sum game, i.e., "for every dollar, one local agency gets, another loses." Clearly, this will never solve or even alleviate the financial problems of cities and counties.

Just as clearly, the attempt to make tax shifting in cases of annexation easier does not relieve any of the fiscal pressures local government is experiencing today and will experience for the continuing future. The continuation of the zero sum game will lead to prolonged and bitter fighting among local government agencies when cooperation and coordination are required as never before.

We have been trying to divide the pieces of the pie in some way based on a formula which does not recognize real service needs of the governments involved and now we are attempting to find a new way to carve up the slices.

The real point is that the pie is too small. If local government is to survive and meet its responsibilities which are growing and will continue to grow, we must bake a larger pie. It is not realistic nor does it make good sense to operate on the thesis that we can meet heavier service needs, especially in the social area, with the zero sum philosophy. Something has to change or we will see the specter of local government units competing with each other for fiscal resources and working together on the basis of sheer necessity rather than shared goals and enlightened government opportunities.

As an example, we would point out to you the legislation suggested by the Alcohol Tax Initiative Committee. This legislation would generate about \$800 Million annually. Eighty-three percent of these funds would be allocated to counties especially for high cost programs as mental health, law enforcement, and prevention of alcohol and drug programs, etc. This is only an example of a possibility. It may or may not be appropriate.

Additional programs that can potentially generate revenue for counties and cities need to be explored and implemented. Only then will the animosity and disagreements, not to mention lawsuits, for the limited tax dollars between cities and counties end.

Thus, we can all work together in a cooperative fashion to provide the kind of government services our people are entitled to receive.

Attachments: Legislative Council's Opinion
 Contra Costa Mayor's Conference Amendment
 to the Revenue and Taxation Code

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A-167

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of California

CITY MANAGER

NOV 12 1987

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Honorable Daniel E. Boatwright
3086 State Capitol

Allocation of Property Tax Revenues:
Jurisdictional Change - \$14800

Dear Senator Boatwright:

You have asked us to discuss the legislative intent of Section 99 of the Revenue and Taxation Code with respect to the negotiation of revenues between local agencies in the event of a jurisdictional change. More specifically, your inquiry is directed to whether that section authorizes affected local agencies to negotiate the distribution of taxes other than the property tax in the case of a jurisdictional change involving the proposed annexation of unincorporated territory by a city. For the reasons stated below, it is our opinion that Section 99 of the Revenue and Taxation Code does not authorize local agencies to negotiate over the distribution of taxes other than the property tax in the case of a jurisdictional change involving a proposed municipal annexation.

Article XIII A of the California Constitution revised various concepts relating to the ad valorem taxation of real property. Included in these revisions are the requirements that the tax be collected by the counties and that the revenues therefrom be apportioned according to law to the various jurisdictions within the counties (see subd. (a), Sec. 1, Art. XIII A, Cal. Const.). In addition, various statutes have been enacted by the Legislature to implement Article XIII A.

Of those statutes, Section 93 of the Revenue and Taxation Code provides for the levy and collection of a local ad valorem property tax by each county at the rate of \$1 per \$100 of assessed valuation and precludes the levy and collection of an ad valorem tax by any other local agency, school entity, or other jurisdiction except to finance certain voter-approved indebtedness (see also subd. (b), Sec. 1, Art. XIII A, Cal. Const.).

In addition, Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code¹ provides for the allocation of property tax revenues collected in each county among the various jurisdictions of the county and for the adjustment of those allocations whenever local agencies have changed service areas or service responsibilities as the result of a jurisdictional change.

Section 99 of the Revenue and Taxation Code,² which specifically governs the adjustment of these allocations in the case of a jurisdictional change, provides for a negotiated exchange of property tax revenues between affected local agencies under specified circumstances.

In general, in the case of a jurisdictional change (including a municipal annexation), not involving either a city incorporation or the formation of a district, the section requires the county auditor to adjust the allocation of property tax revenue or annual tax increment determined pursuant to Chapter 6 for local agencies whose service area or service responsibility would be altered by the jurisdictional change in accordance with one of two applicable procedures. Although the two procedures are distinguished by the fact that one involves review and approval of the proposed jurisdictional change by a local agency formation commission and one does not (cf. subds. (b) and (c), Sec. 99), each procedure is similar with respect to the mechanism for determining the necessary adjustments in revenue allocations for the affected local agencies. In each case, the county auditor is required to notify each local agency in the county whose service area or service responsibility will be altered by the change of the amount of, and the allocation factors with respect to, property tax revenue which the auditor has estimated is attributable to each local

¹Hereafter referred to as Chapter 6 or the Chapter.

²All section references hereafter are to the Revenue and Taxation Code.

agency (see para. (3), subds. (b) and (c), Sec. 99). Upon the receipt of the auditor's estimate, each procedure provides for the negotiation by the affected local agencies of the amount of the property tax revenue to be exchanged between and among them (see para. (4), subds. (b) and (c), Sec. 99). Finally, under these procedures, the proposed jurisdictional change may not proceed (see para. (6), subd. (b), Sec. 99) or may not become effective (see subd. (c), Sec. 99) unless the affected local agencies have reached an agreement upon the allocation of property tax revenues.

The controlling consideration in the construction of statutes is the determination of, and the giving of effect to, the legislative intent and purpose behind them (County of Alameda v. Kuchel, 32 Cal. 2d 193, 199).

In the interpretation of statutes, the courts are guided by the principle that particular words in a statute are to be given the meaning intended by the Legislature, in light of the context (People v. Berry, 147 Cal. App. 2d 33, 37) and of the approved usage of the language (Goodhue v. Industrial Acc. Com., 157 Cal. App. 2d 252, 256), keeping in mind the nature and purposes of the statute (Johnstone v. Richardson, 103 Cal. App. 2d 41, 46).

The intent and purpose of Chapter 6, of which Section 99 is a part, is to provide for the allocation of property tax revenues only. Section 99 relates expressly to a negotiated exchange of property tax revenues only in the event of a jurisdictional change. While the section contains numerous references to the negotiation between local agencies of the exchange of property tax revenues, it is silent with regard to negotiations concerning any other tax revenues.

It is a cardinal principle of statutory construction that a court has no power to rewrite or add to a statute it interprets in order to make the statute conform to a presumed intention that is not expressed (Marsh v. Supervisors, 111 Cal. 368, 372; see also, Mills v. La Verne Land Co., 97 Cal. 254, 257-258; Seaboard Acceptance Corp. v. Shay, 214 Cal. 361, 365-366; Sec. 1858, Code of Civil Procedure). Moreover, there is no basis upon which to presume that the Legislature intended to authorize the negotiation of the distribution of tax revenues other than from property taxes.

Sections 99 (b) (4) and (6) of the Revenue and Taxation Code be amended to read:

(4). Upon receipt of the estimate pursuant to paragraph (3) the local agencies shall commence negotiations to determine the amount of property tax revenues to be exchanged between and among the local agencies. This negotiation period shall not exceed 30 days.

The exchange ~~may~~ shall be limited to an exchange of property tax revenues from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated.

A. If no mutually agreeable basis for revenue exchange basis is reached within this 30 days period, the local agencies shall within 15 days present to the Local Agency Formation Commission resolutions adopted by each such county and city whereby they find that an agreeable basis for revenue exchange was not reached and that they agree to accept such exchange of property tax revenues as is found most reasonable by the Superior Court. The resolutions will contain the best last offer as to the conditions acceptable to each local agency. Upon receipt of the resolutions, the Executive Officer shall issue a certificate of filing pursuant to Section 56828 of the Government Code.

B. During the 15 day period referred to in subsection A, copies of the resolutions shall also be filed in the Superior Court of the county by the local agencies. The Presiding Judge of the Superior Court shall set the matter for hearing within 20 days of the filing of the first resolution. After the local agencies are heard, and due deliberation, the Presiding Judge of the Superior Court shall determine and find which of the last best offers is the more reasonable and more accurately reflects the value of the services being transferred between the local agencies.

C. A copy of the Order of the Court shall be filed by the prevailing local agency with the Local Agency Formation Commission and such order shall be final and binding and reflected in any finding or order made by the Local Agency Formation Commission pertaining

to the exchange of property tax revenues
between the local agencies.

* * *

(6) Notwithstanding any other provision of law, the executive officer, except as provided in subsection C, above, shall not issue a certificate of filing pursuant to Section 56828 of the Government Code until the local agencies included in the property tax revenue exchange negotiation, within the 30 day negotiation period, present resolutions adopted by each such county and city agree to accept the exchange or a copy of the Order of the Court is filed pursuant to subsection C, above.

WILLIAM T. BULLARD, JR.
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LEONARD A. RIEKIND

LAW OFFICES
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November 16, 1989

Honorable Senator Marian Bergeson and
Assemblyman Dominic Cortese and Members
of the Senate and Assembly Local
Government Committees

Re: **Land Use and Local Revenue Sharing Hearing - San Jose**
November 17, 1989

Dear Legislators:

One of the stated purposes for today's joint hearings was to find ways to make annexation proceedings more even-handed. The City of Hercules is also seeking ways to make annexations more even-handed in Contra Costa County. Right now the annexation process is out of balance.

The Problem

In 1986, the City of Hercules applied to LAFCO for the annexation of 635 acres of land, land that had been within its Sphere of Influence since 1981. The County has effectively blocked this annexation for more than three years by refusing to negotiate in good faith for a property tax exchange agreement.

The County has attempted to use the property tax exchange agreement as a tool for extortion, or at least that is how it appears to the Hercules City Council. The County has circumvented the Local Agency Formation Commission and the entire Cortese-Knox Act by relying on its broad interpretation of Revenue and Taxation Code Section 99 to make ever-increasing demands on the City. The County refuses to allow the annexation application to be heard by LAFCO.

Initially, after the County cancelled the Master Property Tax Agreement for the annexation, the City staff worked with the County staff to prepare a mutually acceptable property tax exchange agreement. The City tentatively agreed to a revenue-sharing arrangement for property and transient occupancy tax, which, though unauthorized by Revenue and Taxation Code Section 99, was acceptable in order to get the annexation proceedings commenced.

November 16, 1989
Page 2

Later, the County's intent to control land use in the area proposed for annexation became clear. The County "requested" that the City pay for a Specific Plan to be prepared with the County as lead agency and with the participation of two nearby cities and three unincorporated communities. The County insisted that the Specific Plan be accomplished before annexation could take place. The County "requested" that the City impose a regional traffic mitigation fee on future developers.

The County appears now to be using the property tax exchange agreement as a method of growth control. No development can take place as long as the County refuses to allow annexation by stalling the property tax exchange agreement. Rather than let the City of Hercules control the timing and type of development, the County is attempting to delay development until certain improvements are made to State Highway 4.

The City does not believe that Revenue and Taxation Code Section 99 was intended to provide counties with the authority to control land use within cities, nor the timing of development within cities. The City of Hercules prepared a general plan amendment and environmental impact report on the development prior to making its application for annexation to LAFCO. The City has been ready to reach a property tax exchange agreement with the County, but the County has sought more and more control over the development itself.

The County insists that it has the right to know the precise details of the proposed development before reaching a property tax exchange agreement and allowing LAFCO to determine the merits of the annexation. The County insists that it must know the number of bedrooms, the type of units, the number of units, and the location of units before it will proceed with a property tax exchange negotiation. The County states that it must know the number of rooms in the proposed hotel before it will complete a property tax exchange agreement. The City has provided the County with a range and an upper limit of units that would be approved. The City maintains that it should be able to control the details of the development and that it can be trusted to limit the impacts on the county's circulation system.

The Solution

The City believes that Revenue and Taxation Section 99 was never intended to be a land use planning tool. The City believes that the annexation of land to cities should be governed by the Cortese-Knox Local Government Reorganization Act and not by the Revenue and Taxation Code. The City would like to see the annexation process put back into the Government Code and taken out of the Revenue and Taxation Code.

November 16, 1989

Page 3

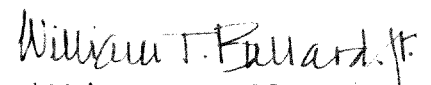
In order to put the annexation process back into the hands of the Local Agency Formation Commission, the Legislature should set a limit on the timing and type of "negotiation" that can take place around the property tax exchange agreements. Currently there is an imbalance in the negotiating process because the County, under the guise of protecting its fiscal interests, can exert absolute veto power over annexations.

The Legislature should consider some mechanism that will allow a property tax exchange agreement to be concluded within a reasonable period of time and which will prevent use of the property tax exchange agreement by the County as a method to indefinitely stall legitimate annexation requests. There should be a cut-off date after which the consideration of the annexation can proceed under some formula for property tax sharing in the event the County and the City cannot agree on a property tax exchange on their own. The Legislature could determine such a formula or a local master property tax agreement could be invoked, similar to the agreements in Sacramento County where all annexations are treated the same. Additionally, language could be added requiring that these negotiations be done in good faith and be finalized in a public hearing.

Currently, without such a clear-cut charge that the City and County shall reach agreement by a certain time, there exists a legislative loophole that some counties have abused by blocking annexation requests before LAFCO can ever hear them on their merits. LAFCO becomes totally irrelevant to an annexation application that is stalled because of a County's refusal to negotiate a property tax exchange agreement.

The City of Hercules does not believe that the Legislature intended to give LAFCO's powers and duties over to counties when it enacted Revenue and Taxation Code 99 following passage of Proposition 13 in 1978. The major overhaul given to the Cortese-Knox Local Government Reorganization Act in 1985 indicates the Legislature's ongoing faith in the role of LAFCO's in annexation proceedings. The City does not believe that the Legislature intended to allow counties to usurp LAFCO's role and respectfully requests that the language in Revenue and Taxation Code 99 be tightened and clarified to prevent the unilateral County control of annexations that has been allowed to evolve in some counties.

Respectfully submitted,


William T. Bullard, Jr.
City Attorney
City of Hercules

WTB/laa

PRESENTATION BEFORE JOINT
LEGISLATIVE HEARING

LAND USE AND LOCAL REVENUE SHARING:
PLAYING THE ZERO SUM GAME

NOVEMBER 17, 1989
SAN JOSE, CALIFORNIA

.

PRESENTED BY:

KERRY HARMS TAYLOR
ASSISTANT COUNTY ADMINISTRATOR
CONTRA COSTA COUNTY

SENATOR BERGESON, ASSEMBLYMAN CORTESE, SENATORS AND ASSEMBLY MEMBERS:

THANK YOU FOR TAKING THE TIME TO HEAR FROM CITIES AND COUNTIES ON THE IMPORTANT ISSUES OF ANNEXATIONS, SALES TAX AND NEGOTIATIONS. OUR COUNTY, CONTRA COSTA, HAS HAD A NUMBER OF ANNEXATIONS WITH OUR 18 CITIES UNDER THE CURRENT LAW. I'LL BE TELLING YOU ABOUT SOME OF OUR EXPERIENCES, WHICH I BELIEVE SUPPORT EITHER KEEPING THE CURRENT LAW OR ENACTING THE BILLS PENDING BEFORE YOUR COMMITTEES AND THE SUBJECT OF THE HEARING TODAY. OUR COUNTY'S APPROACH TO ANNEXATION CAN'T BE SEPARATED FROM OUR GENERAL FINANCIAL POSITION. IN ORDER TO UNDERSTAND THE COUNTY'S, OR COUNTIES, POSITION ON ANNEXATION NEGOTIATIONS, IT MIGHT BE HELPFUL TO HEAR A LITTLE BACKGROUND ABOUT CONTRA COSTA'S FINANCIAL POSITION AS WE BEGIN THIS HEARING.

CONTRA COSTA COUNTY'S BUDGET IN THE 80'S

FOR MOST OF THE 80'S CONTRA COSTA HAS STRUGGLED ALONG, NOT BEGINNING ANY SIGNIFICANT NEW PROGRAMS THAT WEREN'T MANDATED UPON US BY THE STATE. FOR MOST OF THE 80'S, ONE OR TWO DEPARTMENTS EACH YEAR HAD BUDGET PROBLEMS WHICH NECESSITATED REDUCTIONS AND/OR LAYOFFS. THE MOST SIGNIFICANT OF THESE WAS IN 1983, WHEN OUR COUNTY HOSPITAL WAS \$10 MILLION OVERSPENT.

SINCE 1983, OUR HEALTH SERVICES DEPARTMENT HAS HAD 5 BEILENSON HEARINGS PRIOR TO MAKING REDUCTIONS IN THEIR SERVICES. THE LATEST OF THOSE HEARINGS WAS IN SEPTEMBER OF THIS YEAR. WHAT MADE THIS YEAR DIFFERENT WAS THAT COUNTYWIDE REDUCTIONS WERE NECESSARY. THESE REDUCTIONS TOTALED \$18.8 MILLION; \$11.8 MILLION OF THAT CAME FROM

REDUCED DEPARTMENT OPERATIONS. THIS EQUALED TO A 2% REDUCTION IN CONTRA COSTA'S OPERATIONAL BUDGET OF \$562 MILLION. 128 POSITIONS WERE ABOLISHED AS A RESULT OF THESE REDUCTIONS, ABOUT 2% OF THE WORKFORCE.

WHY IS 1989-90 DIFFERENT? THERE ARE A NUMBER OF REASONS WHY THIS YEAR IS DIFFERENT, PRIMARY AMONG THEM BEING THAT THE NEW COUNTY JAIL IS SCHEDULED TO OPEN LATER THIS YEAR AND NEW STAFFING HAD TO BE FUNDED FOR ABOUT 6 MONTHS. THE COUNTY'S SHARE OF TRIAL COURT FUNDING COVERS THE COSTS FOR 89-90, BUT REPRESENTS ONLY ABOUT 40% OF THE ANNUAL OPERATING COSTS OF THE JAIL. TRIAL COURT FUNDING IS A DECLINING REVENUE SOURCE FOR CONTRA COSTA COUNTY BECAUSE WE ARE VERY HARD HIT BY THE "NO-AND-LOW" PROPERTY TAX CITIES' PROVISION OF THE ENACTED LEGISLATION. INCREASED COSTS FOR HEALTH CARE OF ABOUT 22%, A CHANGE IN THE COUNTY'S RETIREMENT CONTRIBUTION RATES AND COST-OF-LIVING ADJUSTMENTS FOR COUNTY EMPLOYEES (BELOW THE CPI IN PERCENTAGE, BUT STILL VERY COSTLY) ALSO CONTRIBUTED. FINALLY, COUNTY GENERAL ASSISTANCE COSTS CONTINUE TO SKY ROCKET AND SEVERAL COURT CASES WITH ADVERSE RULINGS HAVE FURTHER DIMINISHED THE COUNTY'S ABILITY TO CONTROL THESE COSTS. ON THE REVENUE SIDE, THE LOCALLY ASSESSED ROLL SHOWED A HEALTHY INCREASE (ABOUT 11%), BUT THE STATE ASSESSED ROLL DECREASED BY ABOUT 1%. OBVIOUSLY THAT HAD A DEPRESSING IMPACT ON THE OVERALL PROPERTY TAX PICTURE. REDEVELOPMENT CONTINUED TO TAKE A LARGER PORTION OF THE COUNTY'S PROPERTY TAX SHARE, ACCOUNTING FOR A LOSS OF \$8.4 MILLION IN 1989-90 OR 7.6% OF OUR TOTAL PROPERTY TAXES.

FOR THE 90'S, WE DON'T SEE ANY RELIEF IN SIGHT. FULL YEAR FUNDING FOR THE NEW JAIL WILL BE FELT FOR THE FIRST TIME IN 1990-91, RETIREMENT

AND HEALTH COSTS ARE EXPECTED TO INCREASE ABOVE CPI RATES AND GENERAL ASSISTANCE COSTS WILL REMAIN AS A MAJOR CONCERN. THESE INCREASES ARE COUPLED WITH A DECLINING RATE OF PROPERTY TAX GROWTH DUE TO ANNEXATIONS, REDEVELOPMENT AND MARKET CONDITIONS.

IT IS WITHIN THIS FRAMEWORK THAT THE COUNTY APPROACHES NEGOTIATIONS ON ANNEXATIONS. IT MUST BE CLEAR THAT OUR FINANCIAL POSITION CAN'T BE IGNORED WHEN WE ARE NEGOTIATING OVER OUR PROPERTY AND SALES TAX BASE, WHICH COMPRISE ABOUT 21% OF OUR TOTAL BUDGET. SUCH AN APPROACH WOULD BE DETRIMENTAL TO THE CITIZENS WE ARE TRYING SO HARD TO SERVE.

ONE OTHER IRONY THAT SHOULD BE POINTED OUT IS THAT MOST OF THE SERVICES PROVIDED BY THE COUNTY ARE PROVIDED TO CITY RESIDENTS. IN CONTRA COSTA COUNTY, A DISPROPORTIONATE SHARE OF MAJOR SERVICES ARE PROVIDED TO CITY RESIDENTS. FOR EXAMPLE, ALTHOUGH 81% OF THE COUNTY'S 775,000 RESIDENTS LIVE IN CITIES, A RECENT SURVEY INDICATED THAT:

- ♦ 95.5% OF TOTAL WELFARE CASH GRANTS WERE PROVIDED
TO CITY RESIDENTS
- ♦ 96.3% OF TOTAL GENERAL ASSISTANCE PAYMENTS WERE
PROVIDED TO CITY RESIDENTS
- ♦ 95.9% OF TOTAL PATIENTS DISCHARGED FROM THE COUNTY'S
HOSPITAL LIVED IN CITIES
- ♦ 97.2% OF TOTAL JUVENILES INCARCERATED IN JUVENILE
FACILITIES CAME FROM CITIES

A REDUCED LEVEL OF PROPERTY TAXES OR LOSS OF SALES TAX UPON ANNEXATION ONLY MAKES THIS DISPROPORTIONATE SERVICE DEMAND EVEN WORSE. THESE

KINDS OF FIGURES SHOULD BE RECOGNIZED IN THE LAWS WHICH GOVERN ANNEXATION NEGOTIATIONS.

CURRENT ANNEXATION CLIMATE - CONTRA COSTA COUNTY'S PERSPECTIVE

CONTRARY TO THE INFORMATION PROVIDED IN YOUR BACKGROUND MATERIALS, CONTRA COSTA COUNTY HAS MASTER PROPERTY TAX EXCHANGE AGREEMENTS CURRENTLY IN EFFECT WITH 17 OF THE 18 CITIES IN THE COUNTY (THE 18TH, ORINDA, IS THE NEWEST CITY IN THE COUNTY AND HAS HAD NO ANNEXATIONS SINCE INCORPORATION). THE MASTER AGREEMENT IS BASED UPON THE CURRENT CITY/COUNTY PROPERTY TAX SPLIT IN THE ANNEXING CITY, SO THE RATES VARY, WITH A RANGE OF 10% TO 30% OF THE COUNTY'S BASE AND 20 TO 60% OF THE COUNTY'S INCREMENT BEING TRANSFERRED WHEN THE MASTER AGREEMENT IS APPLIED FOR ANNEXATIONS. THE AGREEMENT CONTEMPLATES THAT FURTHER DISCUSSIONS MIGHT BE NECESSARY IF ASSESSED VALUES EXCEED \$10 MILLION OR SALES TAX EXCEEDS \$5000, AS THE MASTER AGREEMENT DOES NOT AUTOMATICALLY APPLY IN THOSE CASES.

IN THE LAST THREE YEARS 48 ANNEXATIONS TO CITIES HAVE TAKEN PLACE, WITH A TOTAL ASSESSED VALUE OF \$1,039,909,525.

- ◆ 46 OF THESE WERE BASED ON THE MASTER AGREEMENT
- ◆ 2 WERE BASED ON FURTHER NEGOTIATIONS, CONSIDERING SALES TAX AND TRANSIENT OCCUPANCY TAX.

TWO ANNEXATION PROPOSALS ARE PENDING - ONE, TO HERCULES, WAS DESCRIBED IN YOUR BACKGROUND MATERIALS. THE SECOND, TO PITTSBURG HAS NOT FORMALLY GONE BEFORE LAFCO, SO FORMAL NEGOTIATIONS HAVE NOT YET BEGUN.

WHEN THE MASTER AGREEMENT IS CALLED OFF BY THE COUNTY SO FURTHER DISCUSSIONS CAN TAKE PLACE, THOSE DISCUSSIONS REVOLVE AROUND THE SALES AND TRANSIENT OCCUPANCY TAX POTENTIAL IN THE AREA. IT ~~SHOULD~~ BE NOTED THAT THE AGREEMENTS REACHED WITH THE CITIES ON SALES OR TRANSIENT OCCUPANCY TAX DO NOT ACTUALLY REQUIRE THAT A SHARE OF THE SALES OR TRANSIENT OCCUPANCY TAX BE TRANSFERRED TO THE COUNTY. INSTEAD, THE PROPERTY TAXES TRANSFERRED TO THE CITY ARE REDUCED BY AN AMOUNT MEASURED BY A SHARE OF THE SALES OR TRANSIENT OCCUPANCY TAX GENERATED IN THE ANNEXED AREA.

WE BELIEVE THAT PROPERTY TAXES SHOULD NOT BE CONSIDERED IN A VACUUM. THEY ARE ONE PART OF THE BIG FINANCIAL PICTURE. IGNORING THE REST OF THE PICTURE (INCLUDING ALL SOURCES OF REVENUE AND ALL EXPENSES) WOULD BE SOMETHING LIKE PLAYING A SYMPHONY WITH ONLY THE STRING SECTION. YOU ALSO HAVE TO KNOW WHAT THE BRASS, WOODWINDS AND PERCUSSION SECTIONS ARE DOING IN ORDER TO PROPERLY APPRECIATE THE MUSIC. IF YOU ADD OR DELETE A FEW VIOLINS, YOU HAD BETTER CONSIDER THE EFFECT ON THE ENTIRE SYMPHONY ORCHESTRA, NOT JUST THE STRING SECTION. SIMILARLY, YOU HAVE TO UNDERSTAND THE OVERALL FINANCIAL PICTURE (INCLUDING SALES AND TRANSIENT OCCUPANCY TAX) WHEN DEALING WITH PROPERTY TAXES.

ALTHOUGH THE EXISTING AGREEMENTS ARE NOT IDEAL FROM THE COUNTY'S PERSPECTIVE, THE SUCCESSES SUPPORT THE NOTION THAT EXISTING LAWS, WHICH ALLOW FOR LOCAL CONTROL OF THE DECISION PROCESS, ARE WORKING IN MOST CASES IN CONTRA COSTA COUNTY. WE WOULD URGE THAT THE LEGISLATURE NOT CHANGE THE LAW IN THE CITY'S FAVOR TO DEAL WITH THE EXCEPTIONS. THE EXCEPTIONS, IN CONTRA COSTA'S CASE, HAVE A WHOLE SET OF CIRCUMSTANCES WHICH HAVE LITTLE TO DO WITH THE EFFECTIVENESS OF

EXISTING LAWS. IN SOME CASES THE PROBLEM IS THE LOSS OF EXISTING REVENUE BASES. IN OTHER CASES, THE PROBLEMS ARE POOR PLANNING OR SERVICE RESPONSIBILITY ISSUES.

PROPOSALS TO MAKE THINGS BETTER

THE BILLS PROPOSED BY SENATOR BERGESON (SB 968 AND SCA 19) AND ASSEMBLYMAN CORTESE (AB 2204 AND 2205) WOULD ALL BE AN IMPROVEMENT TO THE EXISTING NEGOTIATIONS ENVIRONMENT FROM CONTRA COSTA COUNTY'S VIEWPOINT. IT IS NOT CLEAR WHETHER CURRENT LAW ALLOWS CITIES AND COUNTIES TO FULLY RECOGNIZE SERVICE RESPONSIBILITIES LEFT WITH THE COUNTY WHEN ANNEXATIONS TAKE PLACE. IN ESSENCE, THE CURRENT LAW CAN BE INTERPRETED TO SET A LIMIT ON THE FINANCIAL DISCUSSIONS SO AS TO FAIL TO ADEQUATELY REFLECT REAL IMPACTS ON THE COUNTY. THE NEW BILLS WOULD ALLOW MORE FAIRNESS TO ENTER INTO THE NEGOTIATIONS PROCESS CLARIFYING THAT ALL COSTS AND REVENUES ASSOCIATED WITH AN ANNEXED AREA COULD BE CONSIDERED. IN A WAY, IT WOULD FORMALIZE WHAT CONTRA COSTA AND OTHER COUNTIES HAVE BEEN DOING FOR A NUMBER OF YEARS. CITIES WOULD ARGUE THAT THIS WOULD SKEW THE NEGOTIATIONS PROCESS IN FAVOR OF THE COUNTIES. A COUNTER TO THAT ARGUMENT IS THAT THE CURRENT PROCESS IS MORE IN FAVOR OF CITIES BECAUSE IF THE CITY AGREES TO 0 EXCHANGE OF PROPERTY TAXES, MANY BELIEVE THAT THE ANNEXATION MUST LEGALLY PROCEED EVEN IF THE PROJECT ITSELF CANNOT BE JUSTIFIED FINANCIALLY OR IN OTHER WAYS. THE PROPOSALS BEFORE YOU WOULD EVEN UP THE NEGOTIATING POWER BETWEEN CITIES AND COUNTIES.

-

ANOTHER IDEA WORTH CONSIDERATION REVOLVES AROUND THE STATE DEVELOPING A NEW REVENUE SOURCE FOR COUNTIES THAT MATCHES THE GROWTH POTENTIAL OF THE PROPERTY TAX. FOR OUR COUNTY AT LEAST, THE RESOLUTION OF OUR FINANCIAL PROBLEMS WOULD DIMINISH THE NECESSITY OF BARGAINING OVER EVERY DOLLAR DURING ANNEXATION PROCEEDINGS.

ANOTHER WAY TO ADDRESS COUNTY'S FINANCIAL PROBLEMS WOULD BE FOR THE STATE TO ASSUME MORE RESPONSIBILITY FOR INDIGENTS. THE COUNTY'S MEDICALLY INDIGENT AND GENERAL ASSISTANCE POPULATIONS ARE CREATED BY STATE LAW; FAIRNESS MIGHT ARGUE FOR THE STATE ASSUMING FINANCIAL RESPONSIBILITY FOR THESE POPULATIONS. THE SAME ARGUMENT COULD BE MADE FOR THE STATE ASSUMING OPERATIONAL RESPONSIBILITY FOR THE COUNTY'S DETENTION POPULATIONS. FOR THE MOST PART, STATE AND FEDERAL LAWS CREATE THE CLIENTELE IN THESE FACILITIES, YET THE COUNTY PAYS FOR 100% OF THE COSTS TO HOUSE THEM, AND A MAJORITY OF THE COST TO PROSECUTE, DEFEND AND SUPERVISE THEM.

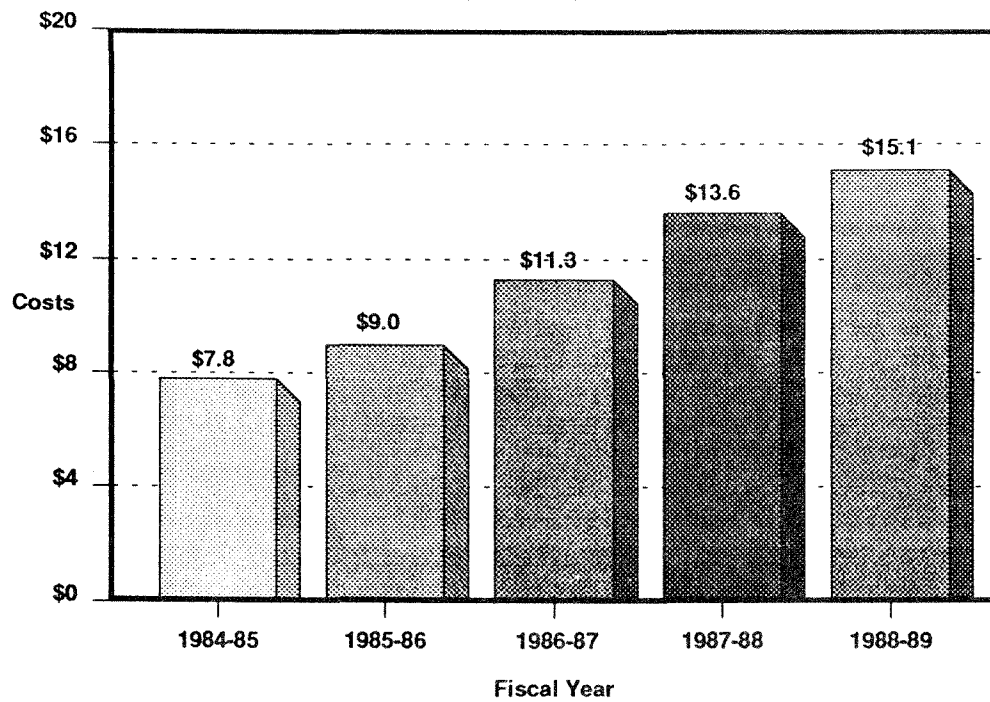
CONTRA COSTA COUNTY HOPES THAT THE STATE TAKES THIS DIRECTION IN ITS FUTURE RELATIONSHIP WITH COUNTY GOVERNMENT. IN THE ABSENCE OF THIS MAJOR FINANCIAL INFUSION, THE PROPOSED BILLS WOULD ADDRESS SOME OF THE CONCERNS OF COUNTIES, AND WOULD ENABLE SOME SMALL MEASURE OF LOCAL CONTROL OVER OUR FINANCIAL POSITION.

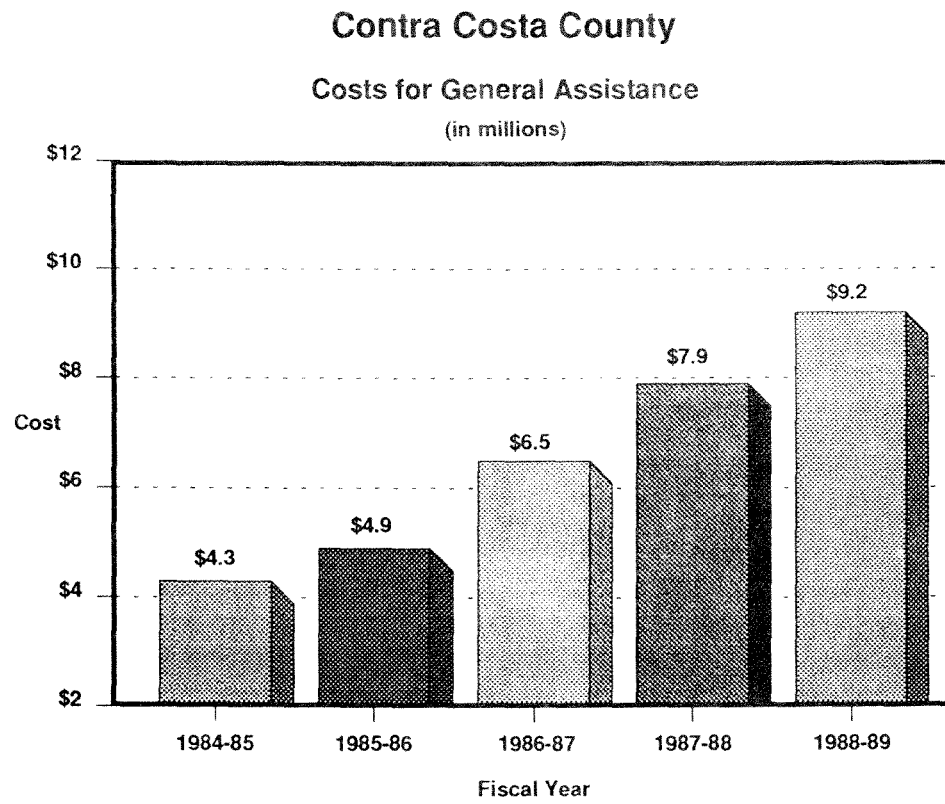
THIS CONCLUDES MY REMARKS. THANK YOU AGAIN FOR ALLOWING CONTRA COSTA COUNTY THIS TIME TO ADDRESS THESE IMPORTANT ISSUES.

Contra Costa County

Cost of Social Service Aid Programs

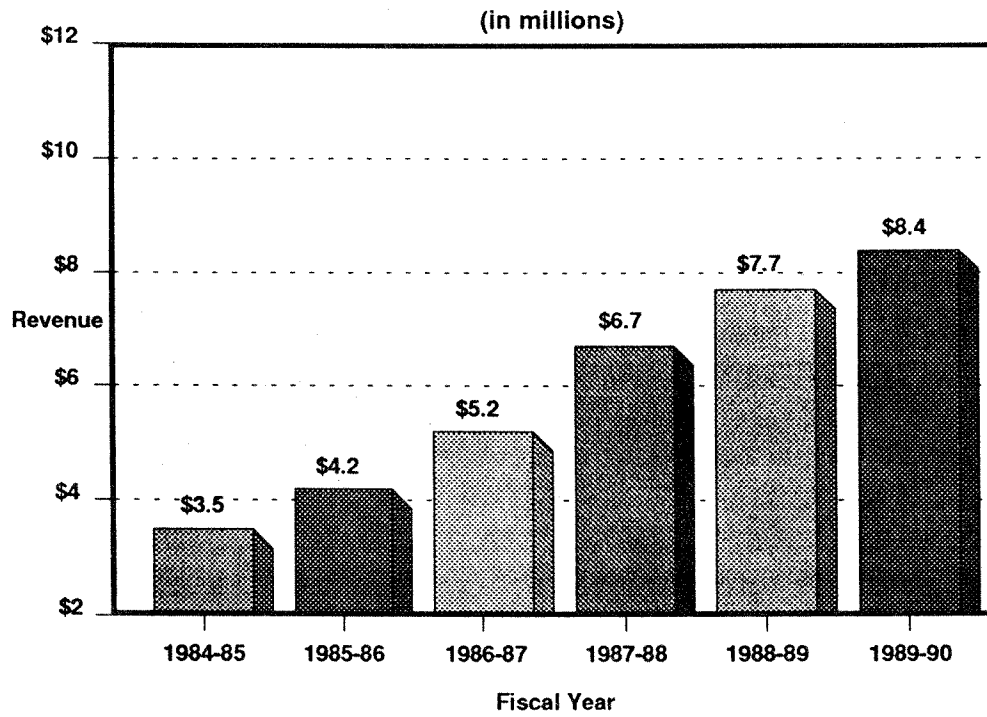
(in millions)



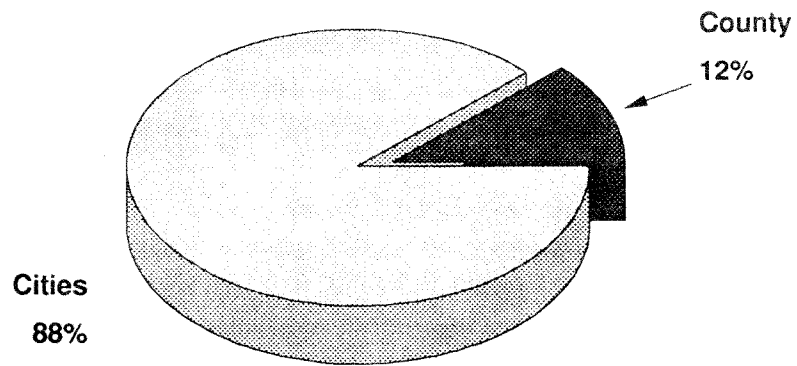


Contra Costa County

County General Fund Property Tax Loss to City Development Agencies



Contra Costa County
County Share of Local Sales Tax



Source: State Board of Equalization, April 1, 1988 to March 31, 1989

Contra Costa County Budget Picture 1989-90

1. A new jail is to be completed in 1989-90. Trial Court funding will fund **this year**. Trial Court Funding is not sufficient to cover more than 40% of annual operating costs of jail.
2. The Budget included increases in health plan and retirement costs as well as cost-of-living-adjustments. The county has settled for below CPI with all groups which have settled.
3. For the first time in the last 5 years budget reduction plans were implemented for **Every Department**.
4. 128 positions were abolished; 50 of those were filled.
5. Budget problem totaled \$18.8 million. The County used one-time monies such as insurance reserves, cancelled encumbrances, etc. to fund \$7.0 million. Departments absorbed \$11.8 million. That \$11.8 equates to a 2% reduction in a budget of \$562 million.
6. Looming ahead: no & low property tax cities will take increasing share of property tax, redevelopment loss worth \$8.4 million (1.5% of total budget or 7.6% of total property tax pie) increasing annually at a greater rate than overall property tax growth and continued annexations.

Contra Costa County
Inequities that Already Exist

1. County share of total property taxes raised is 24% - 54th of 58 counties.
2. County share of total local sales tax is 12% - city share is 88%.
3. County share of fines and forfeitures split (Penal Code 1463) ranges from only 5% to 24%, yet virtually all post arrest services are provided by the county.
4. Most of the services the county provides are to city residents. For example:
 - The county unincorporated area has 19% of the population, but consists of only:
 - * 4.47% of total cash grants awarded for welfare cases in Contra Costa County.
 - * 3.7% of monthly grants for general assistance recipients.
 - * 4.1% of total patients discharged from the County's Merrithew Hospital.
 - * 2.8% of total juveniles incarcerated in juvenile facilities.

Contra Costa County Approach to Annexations

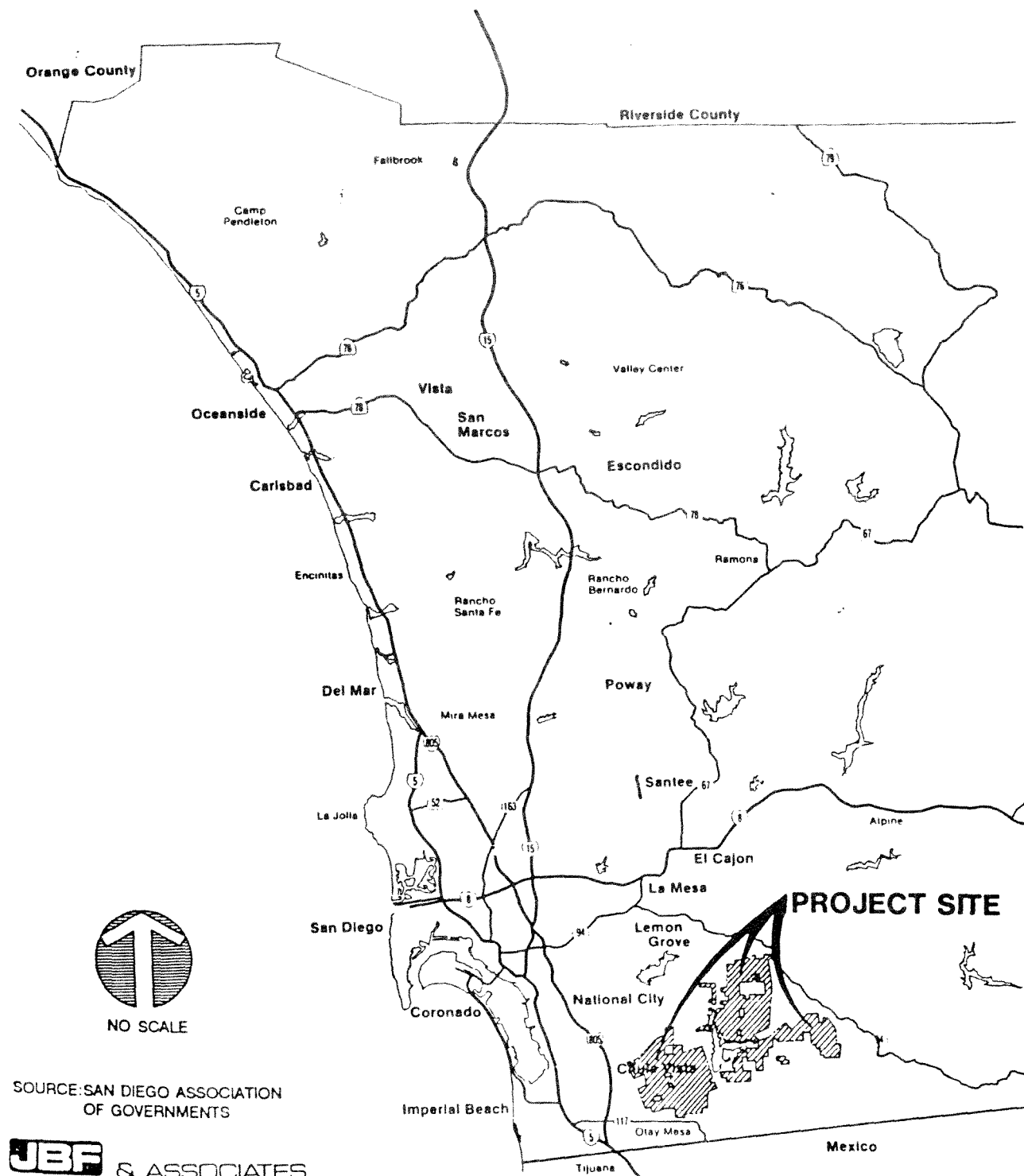
1. Given the county's financial status, annexations and incorporations take on new significance to counties.
2. The county is beginning to look at things such as:
 - ◆ cost of county to provide existing and new services to annexed area.
 - ◆ total revenue potential of an area, not just property taxes.
3. Revenue potential of a developing area has temptations, even if developing it is bad planning. Counties have to be careful to not go for short term gain to long term detriment of all the county's residents.
4. The county has had master property tax transfer agreement since with 17 cities. Exceptions - value over \$10 million or sales tax over \$5,000. Agreements contemplated further discussions would take place when sales tax involved.
5. In past 3 years 48 annexations to cities have taken place.
 - Δ 46 based on master agreement
 - Δ 2 based on further negotiations

OTAY RANCH

A-190

17

TESTIMONY OF
GEORGE KREMPLE



SOURCE: SAN DIEGO ASSOCIATION
OF GOVERNMENTS

JBF & ASSOCIATES
PLANNING AND DESIGN SERVICES
ARCHITECTURAL SERVICES
ENGINEERING SERVICES
LANDSCAPE ARCHITECTURAL SERVICES
ENVIRONMENTAL SERVICES
CONSTRUCTION MANAGEMENT SERVICES

Baldwin Vista Associates



REGIONAL MAP

Figure 1

Red Vermilion

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
CITY OF CHULA VISTA AND
THE COUNTY OF SAN DIEGO
TO ESTABLISH A JOINT PLANNING PROJECT TEAM
FOR THE PROCESSING OF THE OTAY RANCH PROJECT

August 1, 1989

INTRODUCTION

The Baldwin Company is preparing a development plan for the Otay Ranch which is located within the unincorporated area of the County of San Diego. Two jurisdictions with potential final land use authority include the City of Chula Vista and San Diego County. Both jurisdictions have chosen to be actively involved with the preparation of the necessary plans and documents and with the final approval of the entitlements listed below. Both jurisdictions have adopted similar Statements of Intent.

The purpose of this Memorandum of Understanding is to permit and encourage both jurisdictions to share personnel, costs and ideas with a goal of jointly forming and creating necessary documents, plans and entitlements for the project acceptable to both jurisdictions and consistent with the Statements of Intention. While both jurisdictions intend to retain their independent governmental authority to review the project, both jurisdictions have voluntarily entered into this Memorandum of Understanding and have agreed to cooperate to form a joint planning approach in an attempt to develop a single set of entitlements acceptable to both jurisdictions. It is agreed that such an approach is advantageous because:

1. The size of the project (34 sq. miles).
2. Although the entire Otay Ranch property is within the unincorporated area of the County of San Diego, the City of Chula Vista's General Plan shows 42% of the Ranch property as within the City's planning area. This same 42% of the Otay Ranch has been designated a special study area by LAFCO. The entire area will be the subject of a Sphere of Influence Study.
3. Such a large area will generate an inordinate number of complex social, economic, environmental and other concerns.
4. This requires the application of available governmental resources.
5. A central clearinghouse is needed for the convenience of interested citizens, organizations and various groups.

Therefore, the joint planning approach, reflected in this Memorandum of Understanding, has been developed to meet the above concerns. It is the intent of both jurisdictions, through this Memorandum of Understanding, to work together, diligently, to achieve concurrence on specific plans and actions to be taken concerning the future development of the project.

The City Council and the Board of Supervisors have agreed that this cooperative approach would best serve the citizens, organizations and the various groups who may have interest in or concerns about this project.

THE JOINT PLANNING APPROACH

- A. Authorized Work - This includes all work leading to the adoption of General Plan Amendments (GPA's) a General Development Plan, Master Development Agreement(s), Tiered EIR and all necessary environmental documentation, Sphere of Influence Study, Service/Revenue Plan, and an Annexation Plan. This work will be governed by a comprehensive work program acceptable to both jurisdictions and consistent with the respective Statements of Intention. The work program shall be prepared within 45 days following approval of the Memorandum of Understanding. All of the above entitlements are to be considered and acted upon by both jurisdictions prior to the processing of subdivisions.

The scope of work developed for the above listed entitlements shall comprise the total assignment of the Joint Planning Project Team and the Interjurisdictional Task Force. This Memorandum of Understanding shall remain in effect for the time necessary to complete the above-listed scope of work or until such time in the future as it is deemed appropriate that this Memorandum of Understanding shall no longer have effect. This Memorandum of Understanding is limited to the above-listed authorized work and no other work shall be undertaken pursuant to this Memorandum of Understanding unless authorized by both jurisdictions.

Approach - The City and the County will each process a separate GPA. However, the GPAs will be based upon one development proposal and joint staff work.

The County GPA includes consideration of a shift of the Urban Limit Line to extend the Current Urban Development Area (CUDA) Regional Category. This property may be placed in the Specific Plan Area (SPA 21) Plan designation. The SPA 21 may include specific text in the Subregional Plan setting forth the development parameters for the required Specific Plan. This text may require that development conform to the development plan and phasing plan approved by both the Chula Vista City Council and the Board of Supervisors. The City and County are expected to process future land use approvals consistent with a joint plan and consistent with the respective Statements of Intention.

- B. Lead Agency - The City of Chula Vista is hereby designated as the lead agency for processing the authorized work described in "A" above. Chula Vista shall be responsible for coordinating all of this work with the County and with the Interjurisdictional Task Force.

Although the County of San Diego believes that under normal circumstances the County would be the lead agency for the environmental review of this project pursuant to CEQA, the County agrees that, in order to most efficiently process this joint project, the City of Chula Vista shall be the lead agency for the environmental review process.

Since part of the planning will include a rezoning of the property, California Administrative Code § 1505(b)(2) allows a city to act as lead agency. Lead agency responsibility for the EIR shall by agreement be the City of Chula Vista, under Section 15051 (d) of the CEQA Guidelines. The County shall provide staff resources for full review of all environmental documentation produced by the Joint Planning Project Team's consultant prior to EIR certification by the City of Chula Vista and with County input.

City will fully consult with County, as a responsible agency, in the preparation of all environmental documents. Prior to certification by the City of Chula Vista, the San Diego County Planning Commission and the Board of Supervisors shall be afforded an opportunity to review, comment, and hold public hearings on the EIR. Any resulting EIR revisions, mitigation measures, and overriding findings by the Board of Supervisors shall be incorporated into the final EIR by the City of Chula Vista.

- C. Staff and Consultant Resources - County and City will provide the necessary staff resources and jointly retain consultants as necessary to carry out the authorized work described in "A" and "B" above. The attached organization chart illustrates the staff and consultant resources currently expected to be committed to this project.

All consulting contracts shall be with the City of Chula Vista and in accordance with its procedures for letting contracts. Prior approval shall be obtained through the County's Chief Administrative Office.

The cost of providing staff and consultant resources shall be recovered from deposits made by the applicant.

- D. Service/Revenue Plan - A service/revenue plan shall be prepared which will outline municipal and regional service and infrastructure responsibilities, and how they are to be financed, including capital outlay, maintenance and operational costs. This plan may include service agreements with all affected agencies, as well as revenue sharing agreements as deemed appropriate. This plan may also include separate agreements on fees and exactions, the potential for alternative methods of financing such as Mello Roos districts, assessment districts and/or other means of financing short and long term facilities and service costs. Specifics of this plan will be set forth in the scope of work.

The Master Property Tax Agreement adopted by both the Board of Supervisors and the Chula Vista City Council shall not apply to this plan unless specifically agreed to by both governmental bodies.

- E. Sphere of Influence and Annexation Agreement - A sphere of influence agreement and an annexation agreement shall be based on the service/revenue plan and land use plan. The sphere agreement and the annexation agreement shall be processed concurrent with the GPA and shall be included in the scope of work described in "A" above. Decisions on said agreements are expected to be executed prior to LAFCO action on the Sphere of Influence. The Sphere of Influence must be adopted by LAFCO prior to implementation of formal annexation plans. (This necessary LAFCO action is outside the 9-14 month time line in the Statements of Intention and requires an additional 60-90 days.)
- F. Conflict Resolution - The recommendations of the Interjurisdictional Task Force shall be considered during the processing of the General Plan Amendment.

The work program for this project shall include consideration of a Dispute Resolution process for resolving any City/County disagreements and any disagreements with the Baldwin Company. While the exact nature of the process will be determined as part of the work program, it is expected that the Dispute Resolution process will provide for appropriate levels of staff, consultant and/or Interjurisdictional Task Force review. This will provide for a more independent review by the consultants, staff and/or Interjurisdictional Task Force and place disagreements in a more complete context for the policy makers.

Failure to reach consensus between the two jurisdictions may be cause for independent review and decision by the affected jurisdictions.

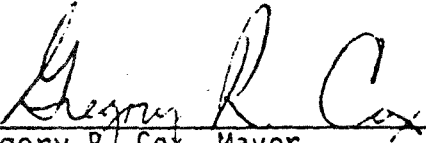
- G. Notice - Reasonable notice shall be given to the other party when either the Board of Supervisors or the Chula Vista City Council places an item on their respective agendas pertaining to the Otay Ranch project.
- H. Definitions

General Development Plan - a description of the development proposed within a particular planned community consisting of, at minimum, a map and written statements setting forth, in general, the location and arrangement of all proposed uses and improvements to be included in the development and the policies and regulations governing it.

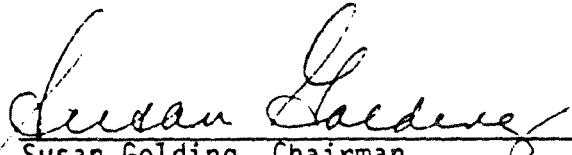
Master Development Agreement/Public Benefit Agreement - An agreement that is "layered" and developed as the key elements of the work program are approved by the governing jurisdiction(s). The initial stage of the Master Development Agreement will include issues related to the General Plan and the General Development Plan. Subsequent stages of this agreement will include issues related to adopted (or to be adopted) implementation measures such as Specific Plans and Tentative Maps.

Upon completion of the Master Development Agreement process, the public benefits and entitlements of the development shall include a complete range of issues including regional and site specific.

- I. Amendments - This agreement may be amended by the City Council and the Board of Supervisors.



Gregory R. Cox, Mayor
City of Chula Vista




Susan Golding, Chairman
San Diego County
Board of Supervisors

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WPC 6366P

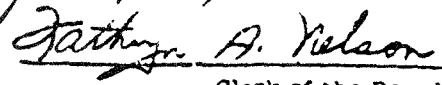
Attachments: Organizational chart for the Joint Planning Task Force

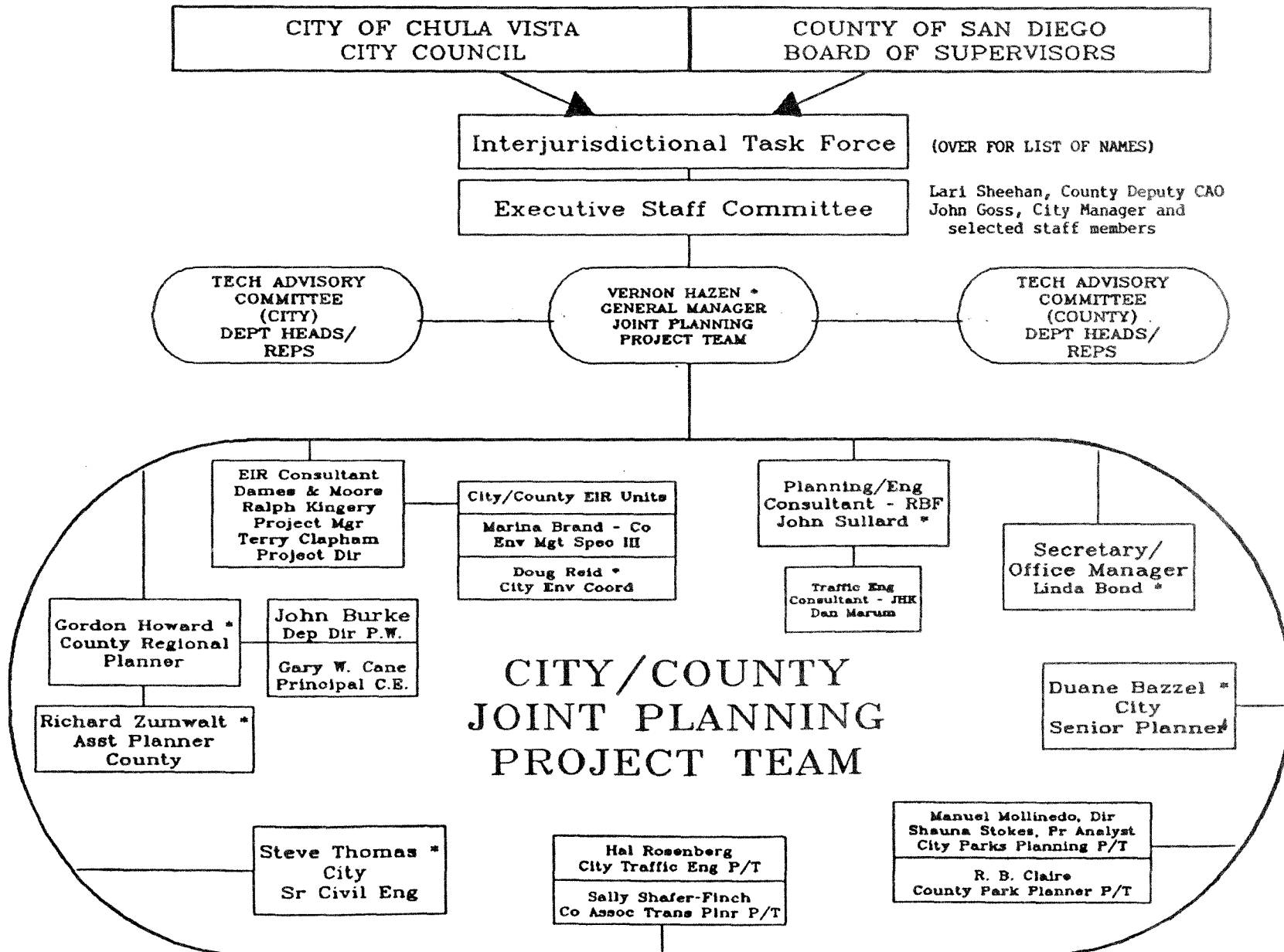
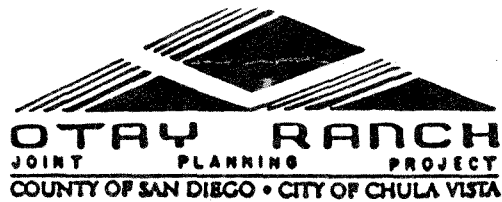
Approved and/or authorized by the Board
of Supervisors of the County of San Diego

August 1, 1989 (35)



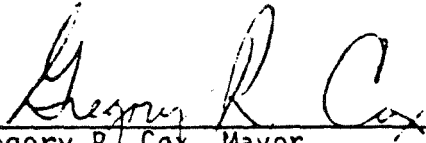
Clerk of the Board of Supervisors

<p>I, KATHRYN A. NELSON, Clerk of the Board of Supervisors of the County of San Diego, State of California, hereby certify that the true and correct copy of the foregoing document now on file in my office</p> <p>Witness my hand this <u>21st</u> day of <u>August, 1989</u></p> <p> _____ Clerk of the Board of Supervisors</p>

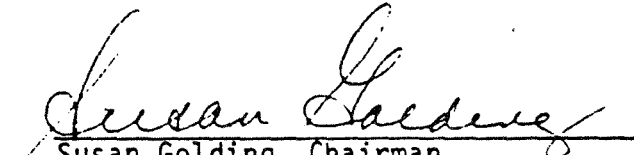


Upon completion of the Master Development Agreement process, the public benefits and entitlements of the development shall include a complete range of issues including regional and site specific.

- I. Amendments - This agreement may be amended by the City Council and the Board of Supervisors.



Gregory R. Cox, Mayor
City of Chula Vista



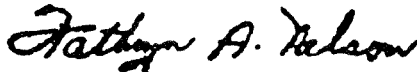
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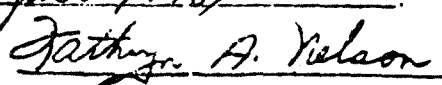
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Clerk of the Board of Supervisors

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--

TESTIMONY

SUPERVISOR BRIAN P. BILBRAY, COUNTY OF SAN DIEGO

Joint Hearing of the Senate and Assembly Local Government Committees

Friday, November 17, 1989

Good afternoon Senator Bergeson, Assemblyman Cortese and Members of your Committees:

Thank you for the opportunity to appear before you this afternoon. My name is Brian Bilbray. I am Supervisor of the First District in the County of San Diego. I have a certain amount of experience with regard to the issue of tax sharing between cities and counties --

- o I am the former mayor of the City of Imperial Beach, and a long time participant in the League of California Cities.
- o I have been a County Supervisor for six years.
- o I am Chairman of the Local Agency Formation Commission of San Diego County.
- o I am the author of San Diego County's successful "Proposition C" Growth Management proposal, and Chair of the Blue Ribbon Committee on Growth Management which is developing the implementation strategy for that proposition.

I believe that your staff, as usual, has done an excellent job identifying the

issues involved. In particular, your background materials treat very well the fiscalization of land use decision making. As you may know, the County, cities in the San Diego region, special districts and others participated two years ago in a regional study to examine the relative responsibilities and revenues of local agencies in the region, and the impact that has on choices we make regarding land use.

As is pointed out in your background materials, another large issue -- what we think is the issue -- is the structure of local agency financing in California. As concluded by our regional Task Force study, governmental responsibilities at the local level do not match with local agency authority and taxing powers in the post-Proposition 13 world. Counties, in particular, have extremely limited revenue generating power. As an example, counties, unlike cities, do not have the power to impose utility users' taxes or a business license tax for revenue purposes.

The generally weak financial picture for counties is weakened by the manner in which State law treats counties in connection with annexations and incorporations.

- o Counties lose not only property tax, but sales tax as well, while retaining the bulk of their governmental responsibilities.
- o By way of example, following the incorporation of the Cities of Encinitas and Solana Beach in 1986-87, the County lost \$4.9 million

in sales tax receipts.

- o County government, for this region of 2.4 million people, retains only \$8.6 million in sales tax receipts. While the County unincorporated area has 20% of the region's population, only 4.5% of the region's sales tax is allocated toward County government activities.

The County's fiscal situation is also impacted negatively by redevelopment law. Notwithstanding the beneficial impact which redevelopment can have, particularly in terms of infrastructure development within the jurisdiction of cities, redevelopment does burden counties while providing little in the way of offsetting benefit to address ongoing and expensive regional service demands.

- o For example, during the last four fiscal years the County of San Diego has been required to contribute \$33 million in property tax revenues via tax increment financing to city redevelopment efforts.
- o During that same period of time, the cities within which those redevelopment projects exist have contributed only \$23 million of their own property tax resources.

What should be done? That certainly is a difficult question, both technically and politically. Let me suggest a couple of things:

- (1) The Legislature should acknowledge the deficiencies which exist in

the present structure of local government financing -- particularly those impacting counties and the citizens of cities that rely on counties for adequate jails, courts and health care.

(2) The Legislature should make it easier for cities and counties to cooperate -- e.g.,

- Take away the vote requirement for the sharing of sales tax -- why is that necessary?

- Look at cooperative efforts in places like San Diego, where the cities have acknowledged the County's fiscal problems and are working with to us to address those problems cooperatively. For example:

- The Otay Ranch project, a major development project in which the County and the Cities of Chula Vista and San Diego are working cooperatively to ensure that essential public services are available prior to the development of that area.

- The Montgomery Annexation, in which the City of Chula Vista and the County of San Diego negotiated an amicable distribution of property tax to make up for the dramatic loss

in sales tax which would otherwise have occurred by virtue of the nature of that annexation.

-- The Blue Ribbon Committee on Growth Management which I have chaired and which I mentioned earlier.

- (3) Finally, the Legislature should give serious consideration to empowering counties to do their job -- i.e., grant to counties the same taxing powers and authorities that cities have to carry out their governmental duties.

Thank you very much for the opportunity to speak to you today. I would be happy to answer any questions you may have.

TESTIMON.JRS

STATEMENT OF ANNE GAVIN
CHIEF ADMINISTRATIVE OFFICE
COUNTY OF LOS ANGELES

The Board of Supervisors of the County of Los Angeles is on record in support of SB 968 and SCA 19, which would make it easier for cities and counties to include sales tax revenue as an element in negotiations for annexations, incorporations and redevelopment projects. This added flexibility would be beneficial for both cities and counties.

With respect to annexations, Los Angeles County has operated since 1980 under an agreement worked out with the League of Cities for property tax transfers. Under the agreement, a formula governs the property tax transfer for annexations with assessed value under \$10 million. Annexations with an assessed value over \$10 million are negotiated on a case by case basis. This system works well. The County Local Agency Formation Commission processes over 250 annexation proposals a year, and only about one percent of these proposals involve negotiations.

Los Angeles County supports and cooperates with municipal annexations of unincorporated areas. We do seek to negotiate a better deal in major annexations when the proposed annexation creates irrational boundaries or annexes a narrow commercial strip and leaves us with a service-intensive residential area. In such instances, we try to negotiate for a larger annexation area so that we can reduce our service responsibilities in the area commensurate with our revenue loss.

We understand there is some interest in a recent annexation proposal of unincorporated area by the City of Pasadena, known in our office as "the Circuit City annexation." This annexation involved a narrow commercial strip. The property tax subject to transfer was relatively minor (\$33,744). The sales tax involved was estimated by the Board of Equalization to be \$498,000. This was a tremendous loss of revenue to our County, with virtually no reduction in our service responsibilities. I am attaching a letter from our office to the City which describes the situation. We entered into negotiations with the City. The City made a counter proposal, but then withdrew it and postponed further negotiations for an indefinite period. We were willing to continue negotiations. That is still our position.

In the case of the "Circuit City" annexation, the ability to more easily share sales tax might have resulted in a satisfactory negotiation for Pasadena and the County.

We thank the Chairpersons and honorable members of the Committees for your efforts to seek solutions to the problems of local revenue-sharing. Thank you also for the opportunity to provide this statement.



**COUNTY OF LOS ANGELES
CHIEF ADMINISTRATIVE OFFICE**

713 HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012
974-1101

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CHIEF ADMINISTRATIVE OFFICER

February 4, 1988

Ms. Judith A. Weiss
Assistant to the City Manager
City of Pasadena
100 North Garfield Avenue
Pasadena, CA 91109

Dear Ms. Weiss:

This responds to your letter of January 13, 1987 regarding the proposed annexation by the City of Pasadena of a portion of unincorporated area at the corner of Rosemead and Colorado Boulevards. In your letter, you propose a property tax resolution whereby the County would retain its base property tax (\$33,744), 50 percent of the increment over the next ten years, and a descending percentage over the subsequent five years.

County Concerns

In general, we support and cooperate with municipal annexations of unincorporated areas. However, we have serious concerns about this specific annexation proposal:

1. The proposed annexation of this narrow commercial strip would increase the uneven City/County boundaries that now characterize the area and would intensify jurisdiction problems.
2. The proposed annexation area is too small to relieve the County of sufficient service responsibilities to reduce County costs or to redeploy County staff.
3. The proposed annexation area provides a significant amount of sales tax (\$498,000 in 1986-87) which is needed by the County to support services, including services to the adjacent unincorporated area that is not included in the annexation proposal. The City of Pasadena's proposal to permit the County to retain the base property tax revenue subject to transfer (\$33,744) is not sufficient to mitigate the negative County fiscal impact of the annexation.

Ms. Judith A. Weiss
 February 4, 1988
 Page 2

Fiscal Impact on County General Fund

1986-87 revenue from annexation area that would be transferred to the City of Pasadena:

Sales Tax	\$498,000	
Cigarette Tax (est.)	8,830	
Transient Occupancy Tax (est.)	39,487	
Property Tax	<u>33,744</u>	
Total		\$580,061

1986-87 net County service costs for annexation area:

Regional Planning	\$ 84	
Public Works	800	
Sheriff	<u>242,823</u>	
Total		<u>243,707</u>

County loss due to annexation (revenue minus net County services costs)	\$336,354
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Impact of Pasadena property tax transfer proposal	<u>33,744</u>
---	---------------

Net County Loss	\$302,610
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Proposed Solutions

We suggest consideration of one or more of the following:

- Expansion of the annexation area to provide more rational boundaries and to relieve the County of service costs commensurate with the County's revenue loss. We understand that the City has explored this alternative and feels it cannot get voter approval for a larger annexation area. Nevertheless, it would be the most desirable solution.
- If the first alternative cannot be achieved, then we suggest a base property tax transfer from the City of Pasadena to the County in the amount of \$300,000. This amount would represent the approximate net loss to the County as a result of the annexation. The increment could be negotiated. We would be willing to consider a lower base amount in the first two to three years to reflect the City's general fund up-front costs for improvements in the area, to the extent that these costs are not offset by the additional sales tax and other revenue that would be transferred to the City.

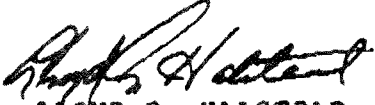
Ms. Judith A. Weiss
February 4, 1988
Page 3

-- A third alternative could be for the area to remain unincorporated, and for the City and the County to develop a joint plan for improvements that would be consistent with the City's overall Gateway Corridor Plan.

We would be happy to work with you on these or any other mutually beneficial alternatives that are in the best interests of the area.

Sincerely,

RICHARD B. DIXON
Chief Administrative Officer



LLOYD E. HALSTEAD
Finance Division
Finance and Operations Branch

AG:os
F42g5

c: Supervisor Michael D. Antonovich

APPENDIX B
California Legislature

Assembly Committee
on
Local Government

DOMINIC L. CORTESE
CHAIRMAN

Senate Committee
on
Local Government

MARIAN BERGESON
CHAIRMAN

**LAND USE AND LOCAL REVENUE-SHARING:
PLAYING THE ZERO-SUM GAME**

A Background Staff Report for the Interim Hearing
of the

Senate Local Government Committee
Marian Bergeson, Chairman

and

Assembly Local Government Committee
Dominic L. Cortese, Chairman

November 17, 1989
Board of Supervisors Chambers
County Administration Building
San Jose, California

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LAND USE AND LOCAL REVENUE-SHARING:
PLAYING THE ZERO-SUM GAME

In July, the Assembly Local Government Committee voted unanimously to hold a joint hearing with the Senate Local Government Committee during the Legislature's interim recess on Senator Bergeson's Senate Bill 968 and Senate Constitutional Amendment 19. These bills make it easier for local governments to voluntarily share revenues from local sales and property taxes.

The League of California Cities and many individual cities opposed these bills and wanted them amended to exclude annexations. In response, Committee members agreed to explore ways to make annexation negotiations more even-handed. Because the County Supervisors Association of California argued it is invalid to focus only on annexations, the Committee also agreed to look at other ways local governments share funds, such as through the creation of new cities and redevelopment projects.

When Assemblyman Dominic Cortese's bills on the same subject came before the Senate Local Government Committee, the Committee unanimously agreed to include his Assembly Bill 2204 and Assembly Bill 2205 in the joint hearing so the two Committees would have all the related bills before them. Mr. Cortese subsequently withdrew his Assembly Constitutional Amendment 38, which closely matched SCA 19, from the Senate Local Government Committee so he could use it for a different topic. Because ACA 38 was then referred to the Senate Revenue and Taxation Committee, it is not part of this joint interim hearing.

Due to the opposition's concern over annexations, the Senate Local Government Committee also unanimously agreed to include part of the subject matter of Mr. Cortese's Assembly Bill 694 in the hearing. His proposal extends the deadline for negotiating property tax revenue exchanges during annexations.

This background staff report presents an overview of the ways in which local governments share revenues and how those decisions affect land use patterns. The report also includes an extended discussion on SB 968, SCA 19, AB 2204, AB 2205, and part of the subject matter of AB 694 to assist legislators, witnesses, and others prepare for the Committees' joint interim hearing on Friday, November 17 in the City of San Jose at the County Administration Building.

The fiscalization of land use. Always related, fiscal decisions and land use choices have become ever more interwoven in the 1980's. Before the voters approved Proposition 13 in 1978, property taxes were the largest single source of local revenue for most local agencies. But when the constitutional amendment sliced property taxes, local officials began the chase for other revenue sources. As a result, property taxes are now a smaller share of local agencies' total revenues. **TABLE I** shows that property taxes were one-third of counties total revenues, but now they are only one-fourth. Cities' dependence on property taxes has dropped even more dramatically from 22% to only 9%. Special districts' reliance on property taxes fell by less than 10%.

TABLE I: PROPERTY TAXES COMPARED TO TOTAL REVENUES

	<u>1977-78</u>	<u>1986-87</u>
Cities	22%	9%
Counties	33%	23%
Special districts	41%	34%

(Source: State Controller's Annual Reports of Financial Transactions.)

TABLE II: LOCAL SHARE OF SALES TAX REVENUES

	<u>1977-78</u>	<u>1986-87</u>
Cities	81%	85%
Counties	15%	12%
San Francisco	4%	3%

(Source: State Board of Equalization's Annual Reports.)

Since the passage of Proposition 13, the Legislature has seen the competition for land uses that generate tax revenues accelerate in frequency and intensity. Local officials' land use decisions are increasingly driven by concerns for new revenues, leading to what some policy pundits call the "fiscalization of land use". While the competitors can be neighboring cities, most frequently the race is between a city and the county where that city is located. Sometimes a boundary change to annex property or create a new city triggers the debate, other times it's a race to see whether the city or county can attract an interested developer first.

The fiscalization of land use also changes how local governments plan their communities. Counties are rethinking their long-standing land use policies of channeling growth into cities and preserving valuable open space and agricultural land. To the dismay of the City of Fresno, Fresno County recently approved construction of a new auto dealership just across the street from the Fresno city line, thereby adding more sales tax dollars to county coffers. Stanislaus County, too, has permitted several auto dealerships recently.

TABLE II shows why the competition for projects which produce sales tax revenues is particularly keen. Cities' share of sales tax revenues since Proposition 13 has increased 4%, while the counties share of sales taxes has decreased by 3%. Cities are capturing more of every sales tax dollar from their county.

The allocation of revenues from property taxes and sales taxes cause local officials to pursue land uses such as commercial development that generate more in revenues than they require in services. In turn, local officials often shun land uses like residential development which generally consume more in public services than it provides in revenues. Development projects may then win approval because of their revenue contributions, not because of their relationship to the community's broader needs.

This competition stems from the persistent decline in federal and state assistance to finance the local public improvements which growth necessitates, such as sewers and schools. Local governments must find new revenues to make up the difference, just as their own general revenues face other competing demands. Compounding the struggle, many citizen groups have organized to oppose new development through local initiatives and referenda, largely in reaction to the results of the fiscalization of land use.

To probe voters' dissatisfaction with local officials' land use decisions, Senator Bergeson as Chairman of the Senate Local Government Committee and the Senate Select Committee on Planning for California's Growth sponsored task force meetings throughout the state last fall. Assemblyman Dominic Cortese, Chairman of the Assembly Local Government Committee, held similar workshops. Both Chairmen separately held hearings to discuss the findings of these groups in greater detail.

One of the recurring themes which emerged from the task forces' discussions was the need for state fiscal incentives to counter the negative effects of the current taxation and

revenue structure. As a result, Senator Bergeson and Assemblyman Cortese introduced the bills which are the subject of the November 17 joint interim hearing. These bills will be discussed in more detail elsewhere in this paper and are found in Appendix A.

A zero-sum game? Any attempts the Legislature makes to neutralize the competition among local governments for scarce tax dollars must recognize that local government finance is a "zero-sum game". For every dollar one local agency gets, another loses. This equation continues to complicate any efforts at legislative reform because the financial losers are easily mobilized.

But over time, local revenue sharing may not be a zero-sum game. Winners and losers can shift as development patterns shift and communities' financial needs change. The Minnesota Fiscal Disparities Program in Minneapolis-St. Paul, Minnesota is a case in point. For the last 14 years, cities, counties, and special districts have contributed 40% of the growth in the area's commercial and industrial property tax base to an areawide "pool". This shared tax base is redistributed back to communities based on population and fiscal capacity. In the early 1980s, Minneapolis was a financial winner in the Twin Cities' fiscal disparities program. But because commercial and industrial development has been so strong in Minneapolis in the last several years, the city now contributes more to the pool than it receives. If the relative magnitude of its gains and losses grow, Minneapolis may seek changes in the program.

One of the reasons that Minnesota state policymakers set up the program was to reduce the disparities in fiscal capacity within the region. Many communities were paying more in property taxes than their neighbors for the same level of public service. Another reason for the program was to minimize the competition for commercial and industrial property which was causing urban sprawl and increasing the costs of providing regional facilities. Although the program has had modest success in reducing conflicts over attracting revenue-producing land uses, it has encouraged communities to accept residential land uses which produce relatively less revenue.

In 1977 the Assembly Special Subcommittee on Community Development, chaired by Assemblyman Eugene Gualco, proposed a similar regional tax base sharing program for the Bay Area, the Los Angeles area, and San Diego County. Introduced as Preprint Assembly Bill 3, it never passed the Legislature. Since then there have been no other comparable tax base sharing proposals.

But there are a number of ways local governments can share revenues and play the zero-sum game. Cities, counties, and special districts can share the growth in the property tax base through redevelopment. They can also share property tax revenues because of boundary changes resulting from incorporations or annexations, or through transfers when there is no shift in boundaries. Sales taxes can also be shared for the same reasons, but in different ways. Cities and counties can agree to share sales tax rates under the Bradley-Burns Uniform Sales and Use Tax Law of 1956. The California Constitution permits cities and counties to share sales tax revenues if a majority of the voters in the two communities agree.

The hurdles local governments face in voluntarily sharing some of these revenues is the subject of the bills before the Committees. To understand the problems these bills are trying to solve, the next sections will describe how current law works.

REDEVELOPMENT AND TAX INCREMENT FINANCING

Redevelopment continues to be one of local government's most potent local land use tools. A redevelopment agency keeps the property tax revenues generated from increases in property values within a redevelopment project area. When it selects a base year, the agency "freezes" the amount of property tax revenues other local governments received. In future years, it collects the "tax increment", or the additional amount the new development generates above the frozen base. These revenues do not have to be shared with other local agencies, but can be transferred through negotiated "pass-through" agreements.

This diversion of property tax revenues creates conflicts, particularly between cities (acting as redevelopment agencies) and counties. Counties argue that they lose needed property tax revenue to redevelopment agencies, but still must respond to the increased service demands the projects generate. Cities counter that much of the property tax increment would not exist without their redevelopment projects.

Between 1978 and 1986, the number of redevelopment agencies grew 81%, the number of redevelopment projects areas grew 100%, and the amount of tax increment revenue allocated to redevelopment agencies increased over 650%. Redevelopment agencies received \$687 million in tax increment revenues in

1986-87, an increase of 23% over the prior year. Based on this level of activity, there is a strong likelihood that local conflicts over tax increment revenues will continue.

On December 7, 1989, the Senate Local Government Committee will hold an oversight hearing in Los Angeles to examine redevelopment issues in greater detail.

PROPERTY TAX SHIFTS

Proposition 13 limits the amount of property taxes property owners pay regardless of the cost or level of service they receive. Article XIII A of the California Constitution restricts the property tax rate to 1% of full cash value and limits annual assessment increases to 2%. State law, through the "AB 8 formula", allocates the resulting property tax revenues to local governments.

The AB 8 formula allocates any new property tax revenues which come from the growth in local assessed values on the basis of location or "situs". Property tax increases accrue to only those communities where the increases take place. This "situs method" of allocating property tax revenues has heightened the fiscal competition among local governments.

The connection between land use decisions and fiscal policies is clear---growth and development increase the assessed value of real property. The community which promotes new construction will receive a greater share of the resulting property tax revenues. A 1987 survey of Bay Area counties found that their search for more revenues was increasing the pressure on county officials to approve urban development in unincorporated areas.

Local officials have other ways to capture property tax revenues: when new cities incorporate or when property is annexed to another local government. Revenues can also be transferred even when there is no accompanying boundary change. Statutory limits on how these transfers occur is the subject of **Assembly Bill 2205** and is included in **Senate Bill 968**.

Incorporations. Since the passage of Proposition 13, local voters have approved 38 new cities. A motivating factor behind many incorporation efforts is the desire to gain more control over land use decisions and to escape what is perceived as overdevelopment in the unincorporated area.

Incorporations typify the zero-sum game. When a new city

forms, it inherits some of the property tax revenues which other local governments, primarily counties, used to receive. For counties, the amount of revenues transferred is based on a formula outlined in the Cortese-Knox Act, which is proportional to the cost of services transferred (Government Code Sc56842 and Revenue and Taxation Code Sc99 [a] [1]). The new city and the other local governments affected cannot negotiate the amount of revenue shifted.

Under the formula, the county's costs of providing services to the new city are multiplied by the ratio of the existing property tax revenues to their total general purpose revenues. The procedure for applying this formula has five steps, as amended by **AB 672 (Cortese, 1986)**. **First**, the local agency formation commission (LAFCO) tells the county auditor which services the proposed city will take over from the existing service providers. **Second**, the county auditor determines the relationship between the existing agencies' property tax revenues and their total general purpose revenues. **Third**, LAFCO determines the total net cost of each service which the proposed city will assume. **Fourth**, LAFCO multiplies the net cost by the property tax ratio to determine how much property tax revenue will go to the proposed city. **Finally**, the county auditor transfers this amount to the new city if the voters approve incorporation.

For counties, application of this formula often reduces funds for state-mandated programs the county must continue to provide countywide, such as criminal justice and public assistance programs, and contributes to the erosion of its local tax base. With limited access to other revenue sources, counties have few ways to adjust to this revenue loss. Since state funding for most of these programs has not kept pace with rising costs, counties funding woes continue to mount.

Annexations. Before cities and special districts annex property, local officials negotiate the exchange of property tax revenues among themselves (Revenue and Taxation Code Sc99 [b]). Cities and counties negotiate on their own behalf, but county officials negotiate for any affected special districts. The negotiations cannot affect the school districts' shares of the property tax revenue. When the local agency formation commission (LAFCO) receives a boundary change application, it notifies the county assessor and the county auditor who calculate the amount of property tax revenue generated within the affected area which is subject to negotiation. Once the local agencies receive this information, they have 30 days to negotiate a property tax exchange. If LAFCO approves the boundary change, it cannot be completed until the property tax exchange agreement is

completed. According to a 1988 Attorney General Opinion, annexations can fail if an agreement is reached after the 30-day period (710ps.Cal.Atty.Gen.344). This 30-day statutory deadline is the subject of AB 694 which is discussed at the end of the paper.

In the same opinion, the Attorney General found that the Cortese-Knox Act does not require a city and county to reach an agreement, but it does compel them to negotiate. Although local governments have more flexibility to set the amount of revenues to be transferred in annexations than they do in incorporations, counties can also block city annexations by refusing to negotiate an exchange. This ability of counties to hold up annexations has chilled relations between many counties and their cities.

Master property tax transfer agreements. While state law does not dictate how the annexation negotiations should be conducted, it does permit counties and other local agencies to adopt a master property tax transfer agreement (Revenue and Taxation Code Sc99 [d]). Some counties have no master agreements with their cities and others have adopted master agreements that treat all annexations to all cities the same. Other master agreements between a county and just one city treat all annexations to that city the same. Some counties have a master agreement with some of its cities but not others. Still other counties insist on negotiating each property tax exchange separately for each annexation to each city. According to the California Association of LAFCOs, most of the urban and rapidly-growing counties have some form of a master agreement. One notable exception is Fresno county which terminated agreements with their cities, effectively halting all annexations. Annexation negotiations have become increasingly controversial, particularly in those counties which already suffer fiscal tensions with their cities. As with incorporations, counties retain responsibility for providing countywide services, but end up with less property tax revenue. Some cities complain that counties are trying to expand the scope of the negotiations beyond property taxes to include sales taxes and other revenues, thereby adding more roadblocks to successful negotiations.

But not all counties are locked in combat with their cities. When Sacramento County's master agreement recently expired, it successfully renegotiated a new agreement with the City of Sacramento for property taxes on terms more favorable to the County. The agreement allows for any county revenue losses to be spread over five years if the County loses property tax revenue after the annexation.

Some counties, such as Sacramento County, believe that the uniformity of master agreements promote the orderly change of boundaries and assist LAFCO's review of annexations. But others, including cities, find them ill-suited to respond to specific problems within their communities and have negotiated separate agreements with one or more cities.

The City of Salinas and Monterey County have a memorandum of understanding for the fast growing Boronda planning area which details the timing of annexations, addresses traffic problems, and specifies the distribution of tax increment revenues. The City of Turlock and Stanislaus County signed an agreement one year ago to shift sales taxes to the County in exchange for the County's agreement not to develop in the City's sphere of influence. After the County permitted several auto dealerships to locate in the unincorporated area, the City thought it might eventually lose sales tax dollars unless it had an agreement.

This September, the League of California Cities surveyed its member cities to find out more about annexations. The preliminary findings indicate that cities' interest in annexing property remains high. Most of the cities which responded said they had initiated at least one annexation in the last five years and plan to annex more land in the future. Of the cities which reported negotiating revenue exchanges, all indicated that the annexation involved some form of property tax exchange. Relatively few reported negotiating over other revenues. These same cities also said that the revenue exchanges were most often confined to the annexed area.

The survey also found that the basis for computing the revenue exchanges varies widely. Some of the revenue exchanges account for the difference in providing county services before and after the annexation. Most of the exchange agreements based the amount of revenues transferred on existing revenues, whereas others looked at both existing revenues and projected revenues after annexations. Some accounted for just projected revenues.

Transfers. Sometimes it is possible for local officials to transfer property tax revenues even when there is no accompanying shift in boundaries or service responsibilities (Revenue and Taxation Code Sc99.4). The Legislature passed A 241 (McClintock, 1985) to give cities, counties, and special districts more flexibility in redistributing limited property tax revenues to other local agencies within the same tax rate area. This requirement to share taxes within the same tax rate area means local agencies may not share these revenues

with neighboring communities as a way to balance the fiscal benefits and burdens of a development.

This law allows local agencies to voluntarily share property tax revenues, but only if four conditions are met:

- o The revenues are available.
- o The transfer will not increase the percentage of the budget derived from fees, charges, and assessments.
- o The transfer will not impair the ability to provide services.
- o The transfer will not reduce schools' property tax revenues.

Before the local agencies share the property tax revenues, they must seek the approval of the board of supervisors or the city council, even if they are not part of the agreement. Each affected local agency must also hold a public hearing to consider the effect of the proposed transfer. Because these criteria are difficult to meet, there are no known examples where the McClintock legislation has been used.

SALES TAX SHIFTS

Sales taxes have increasingly become a prized revenue source for cities and counties, making commercial development extremely attractive to both. Unlike property taxes whose annual growth Proposition 13 limits, sales taxes can keep pace with inflation and better reflect rising service costs. This is why competition for auto dealerships is particularly controversial and has been the reason for land use and boundary disputes in the counties of Fresno, Sonoma, Stanislaus, and Placer.

Sales taxes are also a formidable player in the zero-sum game. Because sales taxes are allocated based on where sales occur rather than where the consumer lives, one community can capture sales tax revenues from another. This is referred to as the "situs" method. As with property tax revenues, the connection between land use decisions and fiscal policies is clear. When a county or a city approves commercial development, it keeps the resulting sales tax revenues.

To illustrate the zero-sum game, a large shopping center in one community will attract shoppers from other places, thereby importing sales taxes that otherwise would have been spent there. This same shopping center can also export costs to its neighbors if its location causes the need for higher levels of police protection or street improvements in neighboring

jurisdictions. Any imbalance between revenues and costs can be lessened either through a sharing of the sales tax rate or the resulting revenues.

The scramble for commercial developments like shopping centers can fuel the drive for boundary changes, as was the case in the recent attempt to incorporate Citrus Heights (Sacramento County). Whether the boundary changes result from annexations or incorporations, all the sales tax revenue from the annexed or incorporated territory goes to the local government initiating the boundary change. The location of commercial development can also be the subject of concern between neighboring communities where no boundary changes are proposed, as was the case between the cities of Rancho Palos Verdes and Rolling Hills Estates in Los Angeles County.

Shifting the rate. Under the Bradley-Burns Uniform Sales and Use Tax Law of 1956, cities and counties can agree to share sales tax rates. Under the Law, the State Board of Equalization collects 6¢ for each dollar of retail sales transactions in the state; the Board then allocates 11/4¢ back to counties. The cities may claim up to 1¢ of the counties' 11/4¢, if the retail purchase occurs in a city. Likewise this revenue goes to the county if the purchase occurs in the unincorporated area.

Local agencies can negotiate to share their sales tax rates. For example, some cities take only 98% of their credited allocation because the extra 2% may help their financially strapped county. Redevelopment agencies can enter into similar rate sharing agreements with cities and counties for revenue generated in their project areas. Annexation agreements between cities and counties can also trigger rate sharing, as is the case with Butte County and the City of Chico. But cities cannot share rates with each other nor can counties share rates with adjacent counties.

Currently, 18 counties have rate sharing agreements with cities within their boundaries, as Appendix D shows. The cities in Napa County share the most; 14.5% of the cities' share of the sales tax goes to the County. The Napa County arrangement resulted from a countywide agreement to halt urbanization outside the City of Napa to protect county agricultural land. Some of the 40 counties without sales tax sharing agreements with their cities include Orange, Riverside, San Bernardino, Imperial, Los Angeles, Santa Clara, and San Diego.

Shifting the revenues. Under the California Constitution, cities and counties can share their sales tax revenues with

each other if a majority of the voters in each community approve the transfer (Article XIII, Sc29). Revenues can be shifted between cities, between counties, or between cities and counties. This provision has been in effect for 21 years since the voters amended the Constitution in 1968, but has never been used. In the late 1960s, the City of Richmond in Contra Costa County offered to share sales tax revenues with neighboring cities to pay for public improvements needed because of a new shopping center, but it lacked the legal authority. After the constitutional amendment passed, however, the cities did not reach an agreement.

In his ballot argument supporting Proposition 8, then-Assemblyman Jack Knox said that sales tax sharing was "a way to reduce bickering and improve cooperation among cities and counties." But it is not clear why Knox wanted majority voter approval for sales tax sharing. His argument suggests that voter approval was an extra safeguard to ensure the public's endorsement of the proposition at that time. Subsequent legislation implemented the constitutional amendment (AB 910, Knox, 1968). The ballot argument appears in Appendix C.

HOW LOCALS PLAY THE ZERO-SUM GAME

To illustrate the relationship between land use and fiscal policy, the next section includes examples of existing, pending, and future agreements between local governments. Witnesses at the November 17 hearing will provide greater detail on some of these negotiations.

A tale of two cities. The 1980 sales tax sharing agreement between the City of Rolling Hills Estates and the City of Rancho Palos Verdes in Los Angeles resulted from Rolling Hills Estates' (RHE) recognition that the major regional Peninsula Shopping Center in its boundaries created traffic and policing problems for Rancho Palos Verdes (RPV), an adjacent city. Both cities agreed to give RHE authority to make street improvements on RPV's streets adjoining the shopping center. RHE also agreed to transfer 8% of its total sales tax revenues to the Los Angeles County Sheriff Regional Law Enforcement Program to pay for law enforcement and traffic enforcement costs. No election was held.

City officials view this arrangement as a cost-sharing agreement rather than a revenue-sharing one. For this reason, they believe they have not violated the Constitutional prohibition against sharing sales taxes without an election.

Butte County and the City of Chico. After almost five years of negotiations over annexations and redevelopment, Butte County and the City of Chico completed a far-reaching agreement in 1987. The negotiation process was delayed because the County filed several lawsuits against the City on annexation agreements, redevelopment, and an environmental impact report, all of which the County subsequently lost.

In one lawsuit, the court upheld Chico's proposal allowing the County to retain all of its property taxes from a commercial annexation, rather than exchanging some of this revenue. The County felt the negotiations were weighted heavily against it. County officials wanted to also negotiate over sales taxes, claiming the sales tax from the commercial annexation was 30 times greater than the property tax.

The final agreement guarantees the County 55% of the property taxes. The City gets 45%. In return, the County cannot block certain annexations. The County also receives 70% of its share of tax increment revenues from the Central Chico Redevelopment Area. The agreement also provides for the City and County to share the sales tax rate. Butte County receives 5% of Chico's rate. If this is ever challenged, the agreement requires the City to shift property taxes to the County in an amount equal to the lost sales tax revenue or some of its own general funds.

Contra Costa County and the City of Hercules. For the last several years, the City of Hercules in Contra Costa County has tried to annex 635 acres of open space in Franklin Canyon to develop a hotel and new housing. Rather than following the existing master property tax transfer agreement, the County wanted to negotiate a separate agreement covering sales taxes and transient occupancy taxes. Because an annexation cannot proceed until there is a property tax agreement, the City's annexation request is pending. The County contends that the proposed project will greatly increase its costs for road improvements and that any revenue transfer should account for the project's total financial impact, including revenues from all sources as well as costs.

This year Hercules sued the County, asking the court to limit the negotiations only to property tax revenues. The court may hear the case in early 1990. This lawsuit raises a number of questions about the scope of the negotiation process state law allows. This case also raises the issue of whether state law requires local officials to agree or merely to negotiate.

Citrus Heights incorporation. When a new city incorporates, it captures the county's share of the sales tax. Unlike

annexations there is no city the county can negotiate with prior to its formation. In the proposed Citrus Heights incorporation in Sacramento County, the County fought over the potential loss of an estimated \$6.5 million in sales taxes from two existing regional shopping malls, Sunrise Mall and Birdcage Walk. The County proposed that these malls be excluded from the new city. The County also suggested that LAFCO condition the incorporation on the new city's repayment of the sales taxes collected in its boundaries for several months after incorporation. LAFCO subsequently approved the incorporation proposal, but deleted the malls from the proposed city's boundaries. The incorporation request is pending, awaiting the outcome of several legal challenges on the need to prepare an environmental impact report and the constitutionality of the incorporation law.

San Diego County and the City of Chula Vista. San Diego County and the City of Chula Vista are trying to forge an agreement before any boundary changes are initiated on the 23,000 acre Otay Ranch development. The two communities recently set up a joint city-county planning team to figure out which jurisdiction can best provide certain services and how to split the tax revenue. Local officials expect to complete their "service-revenue plan" in June 1990.

THE LEGISLATURE RESPONDS: GROWTH MANAGEMENT BILLS

After the workshops and hearings the Senate and Assembly Local Government Committees held last fall on growth management, the Chairmen found that the problems of public finance and public services extend beyond the boundaries of one community. They concluded that the solutions will have to involve more than just one community acting alone. To diminish the negative effects from the fiscalization of land use, the Chairmen introduced a series of bills to remove the obstacles in state law to local revenue sharing: SB 968, SCA 19, AB 2204, and AB 2205.

Property tax transfers: SB 968 and AB 2205. When local officials in Ventura County wanted to negotiate property tax exchanges without a boundary change, the Legislature gave all local agencies this power (AB 241, McClintock, 1985). But the requirements local agencies must follow are difficult to meet. These conditions are detailed in the section on transfers.

To make it easier for local agencies to voluntarily share property tax revenues, both **SB 968** and **AB 2205** remove the requirements that:

- o Parties to an exchange agreement share tax rate areas, thus permitting agreements between neighboring communities,
- o The city or county approve the agreement even if it is not a party to the agreement; and
- o A local agency find that revenues are available, services will not be impaired, and the percent of their budget derived from fees, charges, and assessments will not increase.

Both bills also retain the requirement that the transfer will not reduce schools' property tax revenues and that each affected local agency hold a public hearing to review the proposed transfer. Instead of prior approval from the board of supervisors or city council where the transfer is proposed, **SB 968** lets local agencies share sales tax revenues if their governing bodies adopt ordinances. **AB 2205** also removes this approval requirement. But it follows current law and requires the adoption of resolutions. Ordinances are almost always subject to voter referendum. Resolutions can be subject to voter review depending on the type of decision the governing body makes.

POLICY QUESTION: SHOULD LOCAL AGENCIES APPROVE PROPERTY TAX TRANSFERS BY ORDINANCE OR RESOLUTION?

o **Special district augmentations.** SB 968 prevents any transfer from reducing the property taxes local agencies allocate to the Special District Augmentation Fund, but AB 2205 does not. By allowing special districts to share property tax revenues, AB 2205 enables a special district to give away revenue which otherwise would go into the Augmentation Fund. Under AB 2205, an independent special district could withdraw from participation in the Fund, thereby reducing other special districts' potential revenues.

POLICY QUESTION: SHOULD LOCAL AGENCIES BE PREVENTED FROM MAKING PROPERTY TAX TRANSFERS THAT COULD REDUCE THE AMOUNT OF PROPERTY TAXES ALLOCATED TO THE SPECIAL DISTRICT AUGMENTATION FUND?

o **Annexations.** AB 2205 excludes annexations, but **SB 969** does not. Under AB 2205, cities and counties can negotiate property tax transfers, but only in situations where a boundary change is not involved. Cities maintain that counties refuse to agree to a property tax transfer during annexation proceedings as a way to extract unreasonable concessions from cities. To them, the negotiation process is already tilted

toward counties. By making it easier to share property taxes, the League of California Cities argues that **SB 968** makes a bad situation worse. The League applies this same argument to the voluntary sales tax sharing language in **AB 2204**.

POLICY QUESTION: DOES EXCLUDING ANNEXATIONS FROM PROPERTY TAX TRANSFER NEGOTIATIONS HELP OR HINDER THE NEGOTIATION PROCESS?

POLICY QUESTION: DOES EXCLUDING ANNEXATIONS MAKE IT EASIER OR HARDER FOR LOCAL GOVERNMENTS TO REDUCE THE COMPETITION FOR REVENUE-PRODUCING LAND USES?

o **Mandatory or voluntary?** Both bills make it easier for local governments to share property tax revenues, but do not mandate it. Some observers assert that revenue sharing will have little effect on the fiscalization of land use unless local officials are required to reach agreement. They believe local officials are unwilling or politically unable to voluntarily share revenues with their neighbors. Others counter that requiring property tax exchanges may not be appropriate in all cases.

POLICY QUESTION: SHOULD PROPERTY TAX TRANSFER AGREEMENTS BE VOLUNTARY OR MANDATORY? OR SHOULD THERE BE AN ARBITRATION PROCEDURE TO BREAK THE IMPASSE, AS DISCUSSED IN THE NEXT SECTION?

Sales tax sharing: SB 968, SCA 19, and AB 2204. Under the Bradley-Burns Uniform Sales and Use Tax Law of 1956, in what is called "rate sharing", cities can agree to give some of their 1¢ sales tax rate back to the county. Cities are not obligated to give a fixed sum, just a percentage. It is recession-proof, but cumbersome to administer. Cities and counties can also share sales tax revenues, but only with majority voter approval in each of the affected areas (Article XIII, Sc29). Revenue sharing is not recession-proof but it would work well for short periods because funds could come from a specific project (like a shopping center) and go towards a specific goal (road improvements to the center). The way current law works is discussed in greater detail in the section on sales tax shifts.

To make it easier for local governments to voluntarily share sales tax revenues, both **SB 968** and **AB 2204** repeal the statutory requirements for majority voter approval of sales tax revenue sharing between local agencies. In order for either measure to become operative, another bill to change the California Constitution must pass the Legislature and

receive majority voter approval in a state-wide election. **SCA 19** makes the appropriate change to the Constitution.

o **Enough accountability?** **SB 968** lets the local agencies share sales tax revenues without voter approval if their governing bodies adopt an ordinance. **AB 2204** follows current law and requires the adoption of a resolution. Ordinances are almost always subject to voter referendum. Resolutions can be subject to voter review depending on the type of decision the governing body makes. Proponents of **SB 968** argue that the repeal of the vote requirement and the addition of the referendum requirement strikes a balance between the needs of cities and counties for more flexibility and the rights of taxpayers to repeal a decision. They feel the adoption of a referendable ordinance, rather than a resolution, gives voters greater assurance that they can review their elected officials decisions.

POLICY QUESTION: SHOULD THE REQUIREMENT FOR MAJORITY VOTER APPROVAL OF SALES TAX REVENUE SHARING BETWEEN LOCAL AGENCIES BE REPEALED? IF SO, SHOULD THE PARTICIPATING LOCAL AGENCIES ADOPT REFERENDABLE ORDINANCES OR RESOLUTIONS?

o **Annexations.** Current law directs the participating local agencies to allocate sales tax revenues according to the terms of a contract, pending voter approval. This gives the parties much latitude on what procedures to follow and how to calculate the amount (Government Code Sc55704 and Sc55705). There is also no limitation on the situations that might trigger such a contract. **SB 968** follows current law, but **AB 2204** excludes annexations at the request of the League of California Cities. **AB 2204** makes it easier to share sales tax revenues, but only for purposes other than annexations.

Cities contend that counties can block annexations by refusing to sign property tax transfer agreements until they obtain revenues beyond a reasonable share of the property tax generated in the area proposed for annexation. They also object to the lack of procedure for resolving an impasse in the annexation negotiations. Cities claim that making it easier to share sales taxes will only further encourage counties to seek these revenues during annexation negotiations. Counties respond that they are penalized for land use decisions which channel growth into cities. They often must continue to provide more in services than they receive in property taxes when a city removes property from their boundaries.

POLICY QUESTION: DOES EXCLUDING ANNEXATIONS FROM SALES TAX REVENUES NEGOTIATIONS HELP OR HINDER THE

NEGOTIATION PROCESS?

POLICY QUESTION: DOES EXCLUDING ANNEXATIONS FROM SALES TAX NEGOTIATIONS MAKE IT EASIER OR HARDER FOR LOCAL GOVERNMENTS TO REDUCE THE COMPETITION FOR REVENUE-PRODUCING LAND USES?

POLICY QUESTION: SHOULD THE DECISION ON SALES TAXES AND PROPERTY TAX REVENUE SHARING BE SEVERED FROM THE DECISION ON THE ANNEXATIONS BY PLACING FUNDS IN AN IMPOUND ACCOUNT WHILE THE ANNEXATION PROCESS PROCEEDS?

POLICY QUESTION: SHOULD A THIRD PARTY RESOLVE AN IMPASSE IN ANNEXATION PROCEEDINGS? SHOULD IT BE LAFCO? THE STATE BOARD OF EQUALIZATION WHICH COLLECTS SALES TAXES? AN ADMINISTRATIVE LAW JUDGE OR A SUPERIOR COURT JUDGE?

POLICY QUESTION: WOULD A STATUTORY FORMULA FOR ALLOCATING REVENUES BASED ON SERVICES (LIKE THERE IS FOR PROPERTY TAXES AFTER INCORPORATION) HELP? SHOULD IT BE USED ONLY IF NO AGREEMENT IS REACHED?

POLICY QUESTION: SHOULD THE STATE GIVE COUNTIES A NEW REVENUE SOURCE TO REDUCE THE PRESSURE TO CHASE REVENUE-PRODUCING LAND USES?

Extending the deadline for negotiations: AB 694. Another roadblock in the way of a city's or special district's annexation is the 30-day statutory deadline for a city, county, or special district to agree to a property tax revenue transfer after the county auditor identifies the affected revenue. In El Dorado County, there are 13 pending annexations to the El Dorado Irrigation District because the County and the District have been unable to meet the current deadline.

An annexation may not proceed if negotiations are not completed within this statutory deadline. If LAFCO modifies the agreement, the law allows the parties another 15 days to renegotiate. If consensus is not reached, the proceedings are terminated.

Last year the Attorney General said that in a city annexation proceeding, a property tax transfer agreement is void if reached by the city and county after expiration of the 30-day negotiation period (71Ops.Cal.Atty.Gen.344). This opinion invalidated a substantial number of property tax revenue sharing agreements. In response, the Legislature validated any property tax exchange agreements made prior to the January 1 effective date of AB 694 which may have been

negotiated past the 30-day statutory time limit (Chapter 602 of the Statutes of 1989).

When **AB 694** passed the Assembly it contained language which extended the 30-day negotiating period to 90 days and allowed for a further extension upon the mutual agreement of both parties. The bill also expanded the renegotiation period by an additional 15 days and deleted the requirement that the proceedings be terminated if agreement is not reached. The Senate Local Government Committee deleted these changes from the bill and requested that the subject matter be included in this joint interim hearing.

POLICY QUESTION: SHOULD THE DEADLINE FOR NEGOTIATING PROPERTY TAX REVENUE TRANSFERS DURING ANNEXATIONS BE EXTENDED?

POLICY QUESTION: IF SO, FOR HOW LONG? 60-DAYS?
90-DAYS?
LONGER?

* * *

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Leslie McFadden, consultant to the Senate Local Government Committee, wrote this paper with assistance from Peter Detwiler, also a consultant to the Committee. Lyle Defenbaugh, formerly a consultant to the Assembly Local Government Committee, and Kathleen Sparks, also a consultant to the Assembly Committee, both contributed greatly to the

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* * *

APPENDIX A

SENATE BILL

No. 968

Introduced by Senator Bergeson

March 7, 1989

An act to amend Sections 55704, 55705, and 55706 of, and to repeal Section 55707 of, the Government Code, and to amend Section 99.4 of the Revenue and Taxation Code, relating to local agency financing.

LEGISLATIVE COUNSEL'S DIGEST

SB 968, as amended, Bergeson. Local agency financing: revenue exchanges.

Existing law provides that counties and cities, upon the adoption of resolutions, may enter into contracts for the apportionment of local sales and use tax revenues between them. Existing law provides that these contracts between counties and cities for the apportionment of local sales and use tax revenues between them are operative only if they are approved by the voters of each contracting jurisdiction.

This bill would require that counties and cities adopt ordinances, rather than resolutions, with respect to their entry into these revenue apportionment contracts and would eliminate the statutory requirement of voter approval for the operation of these revenue apportionment contracts.

Existing property tax law permits the exchange of property tax revenues between local agencies under a specified procedure which requires the adoption of resolutions by the governing bodies of the exchanging local agencies and the approval of the proposed exchange by the governing body of the county or city within which the exchange is proposed. Reallocation of property tax revenues between local agencies

SB 968

— 2 —

are precluded unless specified financial conditions exist.

This bill would remove the requirement of approval by the governing body of a county or city of a proposed exchange between local agencies and would instead require the governing body of the county or city to be notified of public hearings held by the local agencies prior to their adoption of ~~resolutions~~ ordinances for the transfer of property tax revenues between them. This bill would also eliminate the financial conditions that must exist prior to a permissible exchange of property tax revenues between local agencies. *This bill would provide that its provisions affecting the transfer of property tax revenues between local agencies shall not result in a reduction in the amount of property tax revenues allocated to school districts or in a reduction in the amount of property tax revenues of affected local agencies allocated to the Special District Augmentation Fund pursuant to specified provisions of law.*

This bill would provide that its provisions deleting the requirement of voter approval for the operation of contracts apportioning local sales and use tax revenues shall become operative only if SCA 19 is adopted and approved by the voters.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 55704 of the Government Code
- 2 is amended to read:
- 3 55704. In any case in which a legislative body, by
- 4 ~~resolution~~ ordinance, determines that one or more
- 5 retailers have been established, or will be established, in
- 6 one local agency and that consumers residing in one or
- 7 more other local agencies are, or will be, purchasing
- 8 tangible personal property from ~~such~~ these retailers, to
- 9 the extent that equity requires ~~that~~ the revenues of ~~such~~
- 10 the local agency be distributed in a fair and just manner
- 11 to all local agencies concerned, a contract may be entered
- 12 into pursuant to this article to apportion the revenue of
- 13 the local agency in which ~~such~~ the retailers are located.

1 Each local agency desiring to become a party to ~~such a~~
2 ~~the~~ contract, shall, by ~~resolution~~ ordinance, so state and
3 name the party authorized by the local agency to sign the
4 contract on the agency's behalf.

5 *SEC. 2. Section 55705 of the Government Code is*
6 *amended to read:*

7 55705. The apportionment of revenue pursuant to
8 this article shall be on such terms as the parties may agree
9 pursuant to a contract signed by the individuals
10 authorized by the ~~resolution~~ ordinance of each legislative
11 body of a local agency which is a party thereto.

12 *SEC. 3. Section 55706 of the Government Code is*
13 *amended to read:*

14 55706. A copy of the contract and a copy of each
15 ~~resolution~~ ordinance shall be transmitted to the auditor,
16 or officer holding the equivalent position, of each local
17 agency which is a party to the contract. Thereafter, upon
18 the receipt of revenues transmitted by the State Board of
19 Equalization pursuant to Section 7204 of the Revenue and
20 Taxation Code, the auditor or equivalent officer shall
21 allocate the funds pursuant to the terms of the contract.

22 *SEC. 4. Section 55707 of the Government Code is*
23 *repealed.*

24 ~~*SEC. 2.*~~

25 *SEC. 5. Section 99.4 of the Revenue and Taxation*
26 *Code is amended to read:*

27 99.4. (a) For the purposes of the computations
28 required by this chapter for the 1985-86 fiscal year and
29 fiscal years thereafter, in the case of any transfer of
30 property tax revenues between local agencies which is
31 adopted pursuant to this section, the auditor shall adjust
32 the allocation of property tax revenue determined
33 pursuant to Section 97, or the annual tax increment
34 determined pursuant to Section 98, for those local
35 agencies whose allocation would be altered by the
36 transfer.

37 (b) Commencing with the 1985-86 fiscal year, two or
38 more local agencies may, by the adoption of substantially
39 similar ~~resolutions~~ ordinances by their governing bodies,
40 determine to exchange any property tax revenues which

1 are allocable to one or more tax rate areas within the local
2 agencies.

3 (c) Upon receipt of notification from the governing
4 bodies of the local agencies, the county auditor shall make
5 the necessary adjustments specified in subdivision (a).

6 (d) Prior to the adoption by two or more local
7 agencies of ~~resolutions~~ ordinances for the transfer of
8 property tax revenues pursuant to this section, each local
9 agency which will be affected by the proposed transfer
10 shall hold a public hearing to consider the effect of the
11 proposed transfer. Notice of the hearing shall be
12 published pursuant to Section 6061 of the Government
13 Code in one or more newspapers of general circulation
14 within each affected local agency. Notice shall also be
15 mailed to the city council of the city and the board of
16 supervisors of the county in which any tax rate area
17 affected by the proposed transfer is located.

18 ~~*SEC. 3.*~~

19 (e) *A transfer made pursuant to this section shall not*
20 *result in a reduction in the amount of property tax*
21 *revenues to be allocated to school districts.*

22 (f) *A transfer made pursuant to this section shall not*
23 *result in a reduction in the amount of property tax*
24 *revenues which is computed pursuant to Section 98.6 for*
25 *each affected local agency for deposit in the Special*
26 *District Augmentation Fund.*

27 *SEC. 6. Section 1 of this act shall become operative*
28 *only if Senate Constitutional Amendment 19 of the*
29 *1989-90 Regular Session is approved by the voters in*
30 *which case Section 1 of this act shall become operative on*
31 *the same date that Senate Constitutional Amendment 19*
32 *becomes operative.*

Senate Constitutional Amendment

No. 19

Introduced by Senator Bergeson

March 7, 1989

Senate Constitutional Amendment No. 19—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 29 of Article XIII thereof, relating to local government financing.

LEGISLATIVE COUNSEL'S DIGEST

SCA 19, as introduced, Bergeson. Local government financing: apportionment of sales and use tax revenues.

Existing law provides that contracts between counties and cities for the apportionment of revenues from sales and use taxes imposed by them become operative only if these contracts are approved by a majority of voters in each jurisdiction voting on the question at a general or direct primary election.

This measure would delete the requirement that these revenue apportionment contracts be approved by the voters of the contracting jurisdictions.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

1 apportion between them the revenue derived from an
2 sales or use tax imposed by them which is collected fo
3 them by the State. ~~Before any such contract become~~
4 ~~operative, it shall be authorized by a majority of the~~
5 ~~voting on the question in each jurisdiction at a general e~~
6 ~~direct primary election.~~

1 *Resolved by the Senate, the Assembly concurring, That*
2 *the Legislature of the State of California at its 1989-90*
3 *Regular Session commencing on the fifth day of*
4 *December 1988, two-thirds of the members elected to*
5 *each of the two houses of the Legislature voting therefor,*
6 *hereby proposes to the people of the State of California*
7 *that the Constitution of the State be amended by*
8 *amending Section 29 of Article XIII thereof to read:*
9 *SEC. 29. The Legislature may authorize counties,*

AMENDED IN SENATE JULY 17, 1989
AMENDED IN ASSEMBLY MAY 17, 1989

CALIFORNIA LEGISLATURE—1989-90 REGULAR SESSION

ASSEMBLY BILL

No. 2204

Introduced by Assembly Members Cortese and Hannigan

March 10, 1989

An act to *amend Section 55704 of, and to repeal Section 55707 of, the Government Code, relating to local agency financing.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2204, as amended, Cortese. Local agency financing: revenue exchanges.

Existing law ~~provides that~~ *permits the execution of* contracts between counties and cities for the apportionment of local sales and use tax revenues between them *and provides that these contracts are operative only if they are approved by the voters of each contracting jurisdiction.*

This bill would eliminate the statutory requirement of voter approval for the operation of these revenue apportionment contracts. *This bill would provide that the negotiation of these revenue exchanges as part of annexation proceedings shall be governed by the Cortese-Knox Local Government Reorganazation Act of 1985 and specified provisions of the Revenue and Taxation Code applicable to the allocation of property tax revenues among local jurisdictions.*

This bill would declare the Legislature's intent with regard to the application and purpose of the above provisions.

This bill would provide that the above provisions shall become operative only if ACA 38 is adopted and approved by the voters.

Vote: majority. Appropriation: no. Fiscal committee: no.

AB 2204

— 2 —

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 55704 of the Government Code*
2 *is amended to read:*

3 55704. (a) In any case in which a legislative body, by
4 resolution, determines that one or more retailers have
5 been established, or will be established, in one local
6 agency and that consumers residing in one or more other
7 local agencies are, or will be, purchasing tangible
8 personal property from ~~such~~ *those* retailers to the extent
9 that equity requires the revenues of ~~such~~ *the* local agency
10 be distributed in a fair and just manner to all local
11 agencies concerned, a contract may be entered into
12 pursuant to this article to apportion the revenue of the
13 local agency in which such retailers are located. Each
14 local agency desiring to become a party to ~~such a~~ *the*
15 contract, shall, by resolution, so state and name the party
16 authorized by the local agency to sign the contract on the
17 agency's behalf.

18 (b) *Notwithstanding subdivision (a), revenue*
19 *exchanges negotiated as part of annexation proceedings*
20 *shall be governed by the Cortese-Knox Local*
21 *Government Reorganization Act of 1985 (Division 3*
22 *(commencing with Section 56000) of Title 5) and Section*
23 *99 of the Revenue and Taxation Code, or its successor.*

24 SEC. 2. Section 55707 of the Government Code is
25 repealed.

26 ~~SEC. 2.~~

27 SEC. 3. It is the intent of the Legislature in enacting
28 this act to enable local agencies to more freely negotiate
29 contracts for the exchange of local sales and use tax
30 revenues between them in all instances other than
31 pursuant to annexation proceedings. It is the further
32 intent of the Legislature in enacting this act that revenue
33 exchanges negotiated as a part of annexation proceedings
34 continue to be governed by provisions of the
35 Cortese-Knox Local Government Reorganization Act of
36 1985 (Division 3 (commencing with Section 56000) of

1 Title 5 of the Government Code) and Section 99 of the
2 Revenue and Taxation Code, or its successor.

3 ~~SEC. 3. Sections 1 and 2~~

4 *SEC. 4. Sections 1, 2, and 3* of this act shall become
5 operative only if Assembly Constitutional Amendment 38
6 of the 1989-90 Regular Session is approved by the voters
7 in which case ~~Section 1~~ *Sections 1, 2, and 3* of this act shall
8 become operative on the same date that Assembly
9 Constitutional Amendment 38 becomes operative.

AMENDED IN SENATE JULY 17, 1989
AMENDED IN ASSEMBLY JUNE 22, 1989
AMENDED IN ASSEMBLY MAY 17, 1989

CALIFORNIA LEGISLATURE—1989-90 REGULAR SESSION

ASSEMBLY BILL

No. 2205

Introduced by Assembly Member Cortese

March 10, 1989

An act to amend Section 99.4 of the Revenue and Taxation Code, relating to property tax revenue allocation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2205, as amended, Cortese. Property tax revenue allocation.

Existing law permits, commencing with the 1985-86 fiscal year, the exchange of property tax revenues between local agencies having the same tax rate area or areas, upon the adoption of the exchange, by resolution, by the transferor local agency and the approval of the exchange by the board of supervisors or the city council, as applicable, if specified conditions are met. Existing law requires, the county auditor to make the specified transfer upon receiving notification of the approved exchange by the board or city council. Existing law requires, prior to the exchange, a noticed public hearing to be conducted to consider the effects of the proposed exchange on various revenues.

This bill would, instead, permit that exchange between any local agencies, would delete the requirement that the exchange have the approval of the board of supervisors or city council, and would, instead, require the county auditor to make the specified transfer upon receiving notification by the transferor local agency. This bill would require notice of that

AB 2205

— 2 —

public hearing to be mailed to the governing body of the city, if any, and governing body of the county in which the tax rate area is located. This bill would ~~also~~ provide that any revenue exchange pursuant to this bill shall not result in a reduction of property tax revenues to be allocated to school districts. *This bill would also provide, however, that revenue exchanges negotiated pursuant to annexation proceedings continue to be governed by specified existing provisions.*

The changes in the duties of the county auditor would impose a state-mandated local program.

This bill would declare the Legislature's intent with regard to the ~~application and~~ purpose of the above provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 99.4 of the Revenue and
- 2 Taxation Code is amended to read:
- 3 99.4. (a) For the purposes of the computations
- 4 required by this chapter for the 1985-86 fiscal year and
- 5 fiscal years thereafter, in the case of any transfer of
- 6 property tax revenues between local agencies which is
- 7 adopted pursuant to this section, the auditor shall adjust
- 8 the allocation of property tax revenue determined
- 9 pursuant to Section 97, or the annual tax increment
- 10 determined pursuant to Section 98, for those local

1 agencies whose allocation would be altered by the
2 transfer.

3 (b) ~~Commencing~~ *Except as provided in subdivision*
4 *(f), commencing* with the 1985-86 fiscal year, any local
5 agency may, by the adoption of a resolution of its
6 governing body or governing board, determine to
7 exchange any portion of its property tax revenues which
8 is allocable to one or more tax rate areas within the local
9 agency with one or more other local agencies. Upon the
10 local agency's adoption of the resolution, the local agency
11 shall notify the county auditor of the exchange.

12 (c) Upon receipt of notification from the local agency,
13 the county auditor shall make the necessary adjustments
14 specified in subdivision (a).

15 (d) Prior to the adoption of a resolution for a transfer
16 of property tax revenues pursuant to this section, each
17 local agency which will be affected by the proposed
18 transfer shall hold a public hearing to consider the effect
19 of the proposed transfer, including the effect on fees,
20 charges, assessments, taxes, or other revenues of the local
21 agency. Notice of the hearing shall be published pursuant
22 to Section 6061 of the Government Code in one or more
23 newspapers of general circulation within each affected
24 local agency and shall be mailed to the governing body
25 of the city, if any, and governing body of the county in
26 which the tax rate area is located.

27 (e) A transfer made pursuant to this section shall not
28 result in a reduction in the amount of property tax
29 revenues to be allocated to school districts.

30 (f) *Notwithstanding subdivisions (a) to (e), inclusive,*
31 *property tax revenue exchanges negotiated pursuant to*
32 *annexation proceedings shall be governed by the*
33 *Cortese-Knox Local Government Reorganization Act of*
34 *1985 (Division 3 (commencing with Section 56000) of*
35 *Title 5 of the Government Code) and Section 99, or its*
36 *successor.*

37 SEC. 2. It is the intent of the Legislature in enacting
38 this act to enable local agencies to more freely negotiate
39 contracts for the exchange of local property tax revenues
40 between them in all instances other than pursuant to

1 annexation proceedings. ~~It is the further intent of the~~
2 ~~Legislature in enacting this act that revenue exchanges~~
3 ~~negotiated as part of annexation proceedings continue to~~
4 ~~be governed by provisions of the Cortese/Knox Local~~
5 ~~Government Reorganization Act of 1985 (Division 3~~
6 ~~(commencing with Section 56000) of Title 5 of the~~
7 ~~Government Code) and Section 99 of the Revenue and~~
8 ~~Taxation Code, or its successor.~~

9 SEC. 3. Notwithstanding Section 17610 of the
10 Government Code, if the Commission on State Mandates
11 determines that this act contains costs mandated by the
12 state, reimbursement to local agencies and school
13 districts for those costs shall be made pursuant to Part 7
14 (commencing with Section 17500) of Division 4 of Title
15 2 of the Government Code. If the statewide cost of the
16 claim for reimbursement does not exceed one million
17 dollars (\$1,000,000), reimbursement shall be made from
18 the State Mandates Claims Fund. Notwithstanding
19 Section 17580 of the Government Code, unless otherwise
20 specified in this act, the provisions of this act shall become
21 operative on the same date that the act takes effect
22 pursuant to the California Constitution.

APPENDIX B

8 APPORTIONMENT OF LOCAL SALES AND USE TAX. Legislative Constitutional Amendment. Legislature may, by general law, authorize counties, cities and counties, and cities to contract to apportion between themselves revenues derived from any sales or use tax imposed by them which is collected by the state, provided the electors of each local entity approve the contract by majority vote. The contract may provide that the recipient of funds pursuant to such contract may use such funds for same purposes as its own revenues.

YES

NO

(For Full Text of Measure, See Page 32, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote in favor of allowing the Legislature to authorize counties, cities and counties, and cities, with the approval of the voters, to contract to share their state-collected sales and use tax revenues and to enable the recipient of such revenues to use them for any purpose for which its own revenues could be used.

A "No" vote is a vote against providing for legislative authorization for such local tax sharing.

For further details see below.

Detailed Analysis by the Legislative Counsel

Existing law provides for the State Board of Equalization to collect for counties, cities and counties, and cities, certain sales and use taxes imposed by those local agencies.

Disposition of these taxes is limited by Section 25 of Article XIII of the State Constitution, which has been construed by the courts as prohibiting the Legislature from authorizing one county, city and county, or city, to give its funds to another county, city and county, or city, unless the funds are expended for purposes of interest and benefit to the county, city and county, or city making the contribution.

This measure would add Section 25.5 to Article XIII of the State Constitution to permit the Legislature, by general law, to authorize counties, cities and counties, and cities, to enter into contracts to apportion their sales and use tax revenues between them, if the taxes are collected by the state. However, before any such contract could become operative, it would have to be submitted to the voters at a primary or general election and receive approval by a majority of the votes cast for and against the proposition in each county, city and county, and city which is a party to the contract.

The measure provides that the contract between any such county, city and county, or city could provide that a recipient of funds would be able to use such funds for any purpose for which it could expend its own revenues.

Statutes Contingent upon Adoption of Above Measure

A digest of the provisions of Chapter 991 of the Statutes of 1968 to become operative if and when this measure is approved, is as follows:

Authorizes counties, cities and counties, and cities, on and after January 1, 1969, to enter into contracts to share sales and use tax revenues collected pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, when it is determined that patrons in a given area are, or will be, purchasing goods from retailers located in one local agency to the extent that such revenues should be distributed in an equitable manner to all local agencies affected thereby. Requires local auditors to transmit Bradley-Burns sales and use tax revenues to the parties to such a contract in accordance with the terms thereof.

Argument in Favor of Proposition No. 8

Frequently the location of large new shopping centers creates inequitable shifts in the manner in which sales taxes are turned over to local governments. These new shopping centers draw their patrons from a wide area which reaches far outside the boundaries of the city or county in which the shopping center is located.

When this happens surrounding cities and unincorporated areas may have a sharp drop in retail sales with a corresponding loss in sales tax revenues. They may have to increase property taxes to make up the loss.

Because a shopping center may mean an increase in sales tax revenues for one local agency and a loss for another, the location of such centers often causes bitter arguments and hostile rivalries among local governments. There is no way under the present Constitution that cities or counties may share sales tax revenues from shopping centers—even though this would ease sales tax fluctuations; even though this would be

* The complete text of the cited statute is on record in the office of the Secretary of State in Sacramento, and is also contained in the published statutes (1968).

the fairest thing to do; even though local residents wished to do it.

Proposition 8 would allow cities and counties to share sales tax revenues if they wished and if they could agree among themselves on a mutually acceptable formula for doing so.

The sales tax sharing would not go into effect unless the appropriate city councils and boards of supervisors all agreed to a specific method for sharing and unless this agreement had been approved by the voters at an election.

Proposition 8 gives local governments another tool with which to solve problems.

It is a way to provide a fairer distribution of sales tax revenues among cities and counties.

It is a way to reduce bickering and improve cooperation among cities and counties.

We strongly urge a "yes" vote.

ASSEMBLYMAN JOHN T. KNOX,
11th District

ASSEMBLYMAN FRANK LANTERMAN,
47th District

Argument Against Proposition No. 8

This Amendment Proposal is NOT in the best long-range interests of the People of the State of California.

Taxation at all levels of government, has been continually increasing—with no end in sight. As taxes go up, a serious financial burden is being imposed on more and more people—especially those on fixed and modest incomes.

The imperative need of our times, is to curb government spending and reduce taxation—not to seek new ways to impose taxes and apportion revenues (as this Amendment Proposal does).

Unless spending and taxation are reduced at all levels of government,—government, the supposed Servant of the People, will instead, become their Enslaver.

There is no surer route to slavery than through unrestrained taxation of the People's substance. No triumph of a foreign ideology or internal conspiracy could enslave the people more thoroughly than they could be through confiscatory taxation.

100% taxation is certainly slavery, and it may not even take that much a percentage. 66% taxation would probably be just as effective in enslaving completely. In this country, we are already past the 35% mark in total tax-take (federal, state and local) out of the average person's yearly income.

The thinking behind this Amendment Proposal is totally repugnant as it opens the door to enactment of laws that would increase the present tax burden.

As a means of opposing the type of bureaucratic attitude behind this Amendment Proposal, I have made the following suggestion for amending our Berkeley City Charter. The suggestion is equally applicable to the state constitution, and all county and city charters:

(suggested) ARTICLE XVII— SAFEGUARDING LIBERTY

Section 117. Ownership of property.

The City of Berkeley recognizes that private ownership of property is a basic human right.

Section 118. Taxation of property.

The City of Berkeley shall deprive no person of his property through oppressive, confiscatory or unequal taxation.

Section 119. City officials to promote economical operation.

Every elected or appointed City official shall exercise diligence in promoting economical operation of the City government. Failure to do so, shall be cause for removal from office.

Section 120. City employees to promote economical operation.

Every City employee shall exercise diligence in promoting economical operation of the City government. Failure to do so, shall be cause for dismissal from employment.

(end)

I respectfully suggest that State Constitution Amendment Proposal "8" is ill advised, "government as usual" legislation which ignores the dangers of the times. Consequently, it should be defeated.

FRED E. HUNTLEY
972 Grizzly Peak Blvd.
Berkeley, California

APPENDIX C

SALES AND USE TAXES

TABLE 23—LOCAL SALES AND USE TAX RATES IMPOSED
BY CALIFORNIA CITIES ON JULY 1, 1988

County	City rate *	Cities	County	City rate *	Cities
1	2	3	1	2	3
Alameda.....	1.00	Dublin/Livermore/ San Leandro	Orange.....	1.00	All cities
Alpine.....	.95	All other cities	Placer.....	1.00	All cities
Amador.....	1.00	No incorporated cities	Plumas.....	.95	Portola
Butte.....	.95	All cities	Riverside.....	1.00	All cities
Butte.....	1.00	Chico	Sacramento.....	1.00	All cities
Calaveras.....	.95	All other cities	San Benito.....	1.00	All cities
Colusa.....	1.00	Angels	San Bernardino.....	1.00	All cities
Contra Costa.....	.975	All cities	San Diego.....	1.00	All cities
Del Norte.....	1.00	All cities	San Francisco.....	1.00	—
El Dorado.....	1.00	All cities	San Joaquin.....	1.00	All cities
Fresno.....	.99	Fresno	San Luis Obispo.....	1.00	All cities
Glenn.....	1.00	All other cities	San Mateo.....	.95	All cities
Humboldt.....	1.00	All cities	Santa Barbara.....	1.00	All cities
Imperial.....	1.00	All cities	Santa Clara.....	1.00	All cities
Inyo.....	1.00	All cities	Santa Cruz.....	1.00	All cities
Kern.....	1.00	All cities	Shasta.....	1.00	All cities
Kings.....	.95	Hanford	Sierra.....	.95	Loyalton
Lake.....	.98	All other cities	Siskiyou.....	1.00	All cities
Lake.....	1.00	All cities	Solano.....	1.00	All cities
Lassen.....	1.00	All cities	Sonoma.....	.975	All cities
Los Angeles.....	1.00	All cities	Stanislaus.....	.95	Modesto/Turlock
Madera.....	1.00	All cities		.975	Ceres
Marin.....	1.00	All cities		.995	Oakdale
Mariposa.....	—	No incorporated cities		1.00	All other cities
Mendocino.....	1.00	All cities	Sutter.....	1.00	All cities
Merced.....	.925	Merced	Tehama.....	1.00	Tehama
	.95	Los Banos	Trinity.....	.90	All other cities
	1.00	All other cities		—	No incorporated cities
Modoc.....	.90	Alturas	Tulare.....	.95	All cities
Mono.....	1.00	Mammoth Lakes	Tuolumne.....	.95	Sonora
Monterey.....	1.00	All cities	Ventura.....	1.00	Ojai
Napa.....	.855	All cities		.967	All other cities
Nevada.....	1.00	All cities	Yolo.....	1.00	All cities
			Yuba.....	1.00	All cities

* Each city's tax rate is credited against the county's one percent tax.

California State Board of Equalization
Annual Report - 1987-88